

**Early Lecture:** Tues/Thurs 8:45 AM to 10:05 AM Humanities 132

**Late Morning Lecture:** Tues/Thurs 11:45 AM to 1:05 AM Fine Arts 126

**Instructor:** Professor David (not Indiana) Jones

**Email:** [dlawjones@gmail.com](mailto:dlawjones@gmail.com)

**Office Hours:** 10:00 – 1:00 PM Wednesdays

**Email Hours:** Mon-Fri 9:00am – 5:00pm



**Do courts *make* public policy or simply *shape***

**it? Can courts *create* social change? Do we want courts doing either?** In this course we explore these questions by investigating the role of courts in the policy-making process. To do that, we will utilize legal, political, and sociolegal scholarship that touches on issues such as race, class, injury litigation, and bureaucracy. I will begin by introducing you to the basic structure and function of courts but by the end you will have been exposed to unique perspectives on the law's place in our society. This is not a law school course – it's not about the black letter of the law, judicial precedent, or specific procedures. It's a course in how courts function in our system of governance.

**There will be anywhere from 45 to 150 pages (average is 60-80) per week of often dense reading.** I

expect that you will have read and will come prepared to discuss the reading in class. Much of it may be difficult for people who have never been exposed to court-related literature.

**If you work (which includes struggling) you will learn** (not a money-back guarantee). If you are really interested in the law, the readings and work will not be unfairly challenging. If you're less interested in the law, I really would take a different course. Seriously.

**These are my goals for all my students:** That by the end of the semester you should be able to...

1. ...describe the basic structure and function of the legal system
2. ...contrast a traditional view of judges as mediators or umpires with a more complicated view of judges as policy makers
3. ...distinguish between and describe the importance of the formal (*dejure*) state of law and the informal (*defacto*) state of law
4. ...articulate the role the Supreme Court has in policy making and
5. ...give an informed opinion about whether the Supreme Court serves our governing system well.

**Learning sequence:**

Unit 1: Law in a Political Context: putting courts and the law into a political perspective

Unit 2: Crafting Decisions: how judges and courts make decisions

Unit 3: From Decisions to Implementation: what happens after judicial rulings

Unit 4: Flypaper or Matchstick: can courts create social change? Do we want them to be able to?

**Reading Material:**

*No Equal Justice* by David Cole (1999, 1<sup>st</sup> edition). Approximately \$17.00 new / \$2.00 used (Amazon)

*Making Policy, Making Law* edited by Mark Miller & Jeb Barnes. Approx. \$30.00 new / \$10.00 used (Amazon)

Everything is available for purchase at Mary Jane's Bookstore, located at 215 Western Ave.

## COURSE AT-A-GLANCE

---

The course is out of 1,000 points. It is easy to keep track of your grade: simply add your points at a given time and divide by the total amount that could have been achieved.

Tests (4) = 575 points  
Essays (2) = 325 points  
Prospectus = 50 points  
Pop Quizzes (5) = 50 points

A	930 to 1,000 points	C	730 to 760 points (S/U)
A-	900 to 920 points	C-	700 to 720 points
B+	870 to 890 points	D+	670 to 690 points
B	830 to 860 points	D	630 to 670 points
B-	800 to 820 points	D-	600 to 620 points
C+	770 to 790 points	E	Below 600 points

## ASSESSMENT DESCRIPTIONS

---

### Tests (575 points)

These will consist of multiple choice and short answer questions. Each test is cumulative, except the last, but will focus on the most recent material. This will allow you to learn from past questions and mistakes. The point is to evaluate how well you are understanding important concepts and terms. Everything from reading material, lecture material, and guest lectures will be covered.

Unit One (100 points) 50 minutes

Unit Two (200 points) 70 minutes. Cumulative

Unit Three (200 points) 70 minutes. Cumulative

Unit Four (75 points). 30 minutes. Non-cumulative.

### Bonus Quizzes (+16 points)

After all the unit tests you will be given an opportunity to gain bonus points. In randomly selected groups you will re-take the multiple choice portion of the test you just took. You will have 7-10 minutes to complete the quiz in groups. You can only receive up to four points on each bonus quiz.

### Pop Quizzes (50 points / + 4 points):

Six to eight times during the semester I will ask you to answer three multiple choice questions regarding readings and lectures. I will keep the highest five scores at the end of the semester. You will receive four points for just putting your name down and two points for every correct answer. You cannot make these quizzes up. If you score ten points on five pop-quizzes I will add four points to your end-of-semester total.

### Short Essay (100 points)

At the beginning of the semester you will write an essay based on your final essay question. Two purposes are to get you thinking about the themes of the course and to take inventory of your beliefs early on. Its other purpose is to be an assessment of how well you are grasping the material. The essay will be judged based on your ability to use material and create an argument. Length: 900 to 1,100 words.

### Prospectus (50 points)

This is a worksheet with questions designed to help you outline and prepare your final essay. A portion of the prospectus will ask you to reflect on the feedback from the short essay and how you plan to improve upon it.

### Final Essay (225 points)

At the end of the semester you will write an essay that directly asks you to answer the major questions of the course. There are three purposes: (1) By having to put different readings and lectures together you will see how they connect (2) I will be able to assess how well you understand the material and the course (3) You will have worked to improve your writing style and structure from the first essay. Length: 1,800 – 2,200 words.

## BASIC POLICIES

---

**Attendance:** Attendance should be considered mandatory-lite. I do not keep track of attendance during class but there are pop-quizzes which are meant to encourage attendance. However, failure to take these quizzes will not tank your grade. It's your call.

**Students with disabilities:** If you have a documented disability and you anticipate needing accommodations please, please make arrangements to talk to me within the first two weeks of class. Keeping me in the loop will help me better help you. Please request that the Disabilities Resource Center send a letter to me. Even if you do not have a letter, you should still talk to me - we can work something out.

**Instructions and Rubrics:** are all posted to blackboard. Check out the reading summary guide! I think this is a good way to take notes while you're doing your readings.

**Handing in assignments:** The essays and prospectus are due on blackboard. When you go to the blackboard page for this course there is a link on the left blue menu bar called Assignments. Click on that link and then click on the next link that corresponds with the assignment you are uploading. "Blackboard ate my homework" isn't a thing. If you have problems uploading just email it to me!

**Late assignments:** 1/10<sup>th</sup> of the point-value for an assignment will be deducted every day an assignment is late. One minute passed the due date constitutes the first "day late".

**Missed Tests:** Though sometimes I employ a snot & tears test, this one is very simple: Make-ups only for "*illness, tragedy and emergencies...compelling time conflicts...athletic events... religious observance*". See: <http://www.albany.edu/undergraduateeducation/attendance.php>

## 'BUT, WHAT IF!?' POLICIES

---

**Grading and Test Question Disputes:** If you do not understand why you received a certain grade on an assignment you should bring the assignment with you to my office hours to discuss it. If you disagree with the grade you have been given, I have instructions on blackboard under "Grade Disputes" for getting a re-grade. I also have a form for challenging questions on tests. I've thought of it all people!

**Safety-Valve:** Sometimes "stuff" happens. You can get a two-day extension on your short essay or your prospectus if you request one before the due date/time with a justification for the extension. It has to be **requested by email**. There is no safety-valve for the final essay.

**Snow Day or Unscheduled Cancellations:** In the event a class is cancelled for a snow day you are all required to build snow-people and drink hot chocolate. But due dates for assignments still stand (they are sent via blackboard after all). Tests will be given the following class.

## PLAGIARISM OR CHEATING

---

No. Nope. No-No. For the love of Saint Beyoncé, No! Do not even think about cheating in this course, except while you ponder the dire consequences. If you are confused: plagiarism is the use of someone else's words or ideas without giving the original author credit by citing and using quotation marks (Novkov; Kapur). If you have any questions about this, contact me **before you submit an assignment** for grading. If you plagiarize or cheat in this class the best outcome you'll get is a failing grade for the assignment. Flagrant cheating also automatically results in a report filed with the University. This is a 300 level course, not 100, thus **ignorance is not a valid defense**.

Let me repeat that: **IGNORANCE (I DIDN'T KNOW THAT WAS PLAGIARISM) IS NOT AN EXCUSE.**

I catch someone for plagiarizing or cheating **every semester** (not a generalization, this is a fact). **Do not become this statistic**. See [http://www.albany.edu/undergraduate\\_bulletin/regulations.html](http://www.albany.edu/undergraduate_bulletin/regulations.html) for U-Albany guidelines.

## SCHEDULE

(MPML indicates reading is in *Making Policy, Making Law*)

**Recommended** readings are not mandatory.

D	Date	Unit / Holiday	Readings
TH	27-Aug	1: Seeing Law in a Political Context	
T	1-Sep	1: Seeing Law in a Political Context	Baum, <i>American Courts</i> Chapter 1 (Overview of the Courts) Baum, Chapter 2 (Court Organizations)
TH	3-Sep	1: Seeing Law in a Political Context	Solum, <i>The Counter-Majoritarian Difficulty</i> <b>Recommend:</b> Common Good, discussion on judicial activism
T	8-Sep	1: Seeing Law in a Political Context	Rosenberg, <i>The Hollow Hope</i> , Introduction & Chapter 1 <b>Recommend:</b> Scheingold, <i>Politics of Rights</i> , Chapter 9
TH	10-Sep	1: Seeing Law in a Political Context	Friedman, <i>Total Justice</i> , Chapter 2 and 3 <b>Recommend:</b> Friedman, <i>Law in America</i> , Part 6
T	15-Sep	<b>No Class Rosh Hashanah</b>	
TH	17-Sep	1: Seeing Law in a Political Context	Melnik: "Courts and Agencies" (MPML) <b>Recommend:</b> Friedman, <i>Law in America</i> , Part 6
T	22-Sep	<b>Test #1</b>	
TH	24-Sep	<b>No Class Yom Kippur</b>	
T	29-Sep	1: Seeing Law in a Political Context	Haltom and McCann, <i>Distorting the Law</i> Chapter 3 (In Retort) <b>Recommend:</b> Haltom and McCann, Chapter 2 (Pop Tort)
TH	1-Oct	1: Seeing Law in a Political Context	<b>Skim:</b> Haltom and McCann, Chapter 6 (Java Jive)
<b>Submit Short Essay to Blackboard by 12:00 PM (noon) by Oct. 2nd</b>			
T	6-Oct	2: Crafting decisions	Epstein, Knight, and Martin: "Const. Int. from a..." (MPML) Baum and Hausegger: "The Supreme Court and..." (MPML)
TH	8-Oct	2: Crafting decisions	Kassop: "The View from the President" (MPML)
T	13-Oct	2: Crafting decisions	Barnum: "The Supreme Court and Public Opinion..." Caldeira and Wright: "Organized Interests and Agenda..."
TH	15-Oct	2: Crafting decisions	Cooper, <i>Hard Judicial Choices</i> , Chapter 7 <b>Recommend:</b> Cooper, Chapter 1
T	20-Oct	<b>Test #2</b>	
TH	22-Oct	3: From Decision to Implementation	Canon and Johnson, <i>Judicial Policies</i> , Chapter 1 <b>Recommend:</b> Canon and Johnson, Chapter 3
T	27-Oct	3: From Decision to Implementation	Rosenberg, <i>Hollow Hope</i> , Chapters 6 and 8
TH	29-Oct	3: From Decision to Implementation	Devins, "Judicial Matters", pages 1054 - 1069
T	3-Nov	3: From Decision to Implementation	<u>Start</u> Cole, Chapter 1 – 3 (p. 16 – 131)
TH	5-Nov	3: From Decision to Implementation	<u>Finish</u> Cole, Chapter 1 – 3 (p. 16 – 131) <u>Start</u> Cole, Chapter 4 – 6 (p. 132 – 180)
<b>Submit Prospectus to Blackboard by 12:00 PM (noon) by Nov. 6th</b>			
T	10-Nov	3: From Decision to Implementation	<u>Finish</u> Cole, Chapter 4 – 6 (p. 132 – 180)
TH	12-Nov	<b>Test #3</b>	
T	17-Nov	4: Flypaper or Matchstick?	Klarman, "Brown and Lawrence (and Goodridge)"
TH	19-Nov	4: Flypaper or Matchstick?	Galanter, "Why the Haves Come out Ahead"
T	24-Nov	<b>No Class</b>	
TH	26-Nov	<b>No Class Thanksgiving</b>	
T	1-Dec	4: Flypaper or Matchstick?	Epp, <i>The Rights Revolution</i> , Chapter 3 and 4 (p.26-70)
TH	3-Dec	4: Flypaper or Matchstick?	Devins: "Is Judicial Policymaking...." (MPML) Miller and Barnes: "Governance as Dialogue" (MPML)
T	8-Dec	<b>Test #4</b>	
<b>Submit Final Essay to Blackboard by 12:00 PM (noon) by Dec. 14</b>			