

## GOVT 225: COURTS AND JUDICIAL PROCESS

Instructor: Gbemende Johnson

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Course Room: KJ 101, Course Time: 2:30pm to 3:45pm

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Office Hours: Monday: 1:30-3:00pm, Thursday: 10:30am to 12:00pm, and by appointment

### **COURSE OVERVIEW:**

This course provides an examination of the complexities of the American Judicial System. Courts hold a unique place in the American political landscape. Judges make decisions that influence public policy, settle disputes between private parties, and clarify the boundaries of institutional power. Federal and state judicial offices are also supported by an expansive administrative structure that contributes to the ever-increasing reach of judicial authority. Topics we will explore this semester include the selection of federal and state judges, access to courts, civil law and tort reform, and criminal law controversies involving indigent defense, jury selection, and witness identification. We will also examine methods of statutory and constitutional interpretation, and U.S. Supreme Court decision-making.

### **COURSE GOALS:**

I hope for students to achieve three main goals by the end of this course. These goals align with the educational goals of Hamilton College.

**Analytical Discernment:** In this course, we will examine the American judiciary from a **social science perspective** through the use of academic texts, journalistic sources, documentaries, first-person narratives, and quantitative data. Students are expected to critically analyze the content presented in this course by remaining attentive to the arguments, viewpoints, ideas, and evidence presented. What perspective is the author(s) attempting to convey? What information is presented to support/butress this perspective? Is the supporting information appropriate for the argument presented? These are some of the questions that we will regularly engage as we explore course material.

**Communication and Expression:** Oral and written communication are highly valued at Hamilton. Students should be able to **articulate and express** their opinions with logical arguments in a clear, effective, and persuasive manner. Expressing oneself with clarity and eloquence requires constant and continual practice and effort from all of us. In this course, students will work toward clear expression of their viewpoints through their writing assignments and routinized classroom discussion. I also expect that students respect the voices, opinions, and perspectives of their peers.

**Creativity:** Given the relative “stability” of American judicial institutions, many take the structure and operation of these structures as a given. In this course, students will not only examine current policy and practice, but will also be tasked with envisioning improvements, alternatives, and potential changes to our current judicial system. This could entail thinking critically and creatively about the current selection mechanism for federal judges or the tort reform movements in the states. Students should be able to think beyond the current state of the American judiciary to consider ways in which to improve the efficiency and effectiveness of American judicial institutions.

### **GRADING**

Midterm: 25%

Final: 35%

Response Papers: 25% (Paper 1: 10%, Paper 2: 15%)

Participation and Attendance: 10%

Judicial News Current Event: 2.5%

Constitution Day Talk: 2.5%

## Required Text

Banks, Christopher P. and David M. O'Brien. 2016. *The Judicial Process: Law, Courts, and Judicial Politics*. Washington, D.C.: CQ Press.

## ASSESSMENT:

### Exams

Exams will be in-class. Exams are also closed-book and closed-note. Make-up exams will only be given when the student has notified me prior to the scheduled exam, and upon my acceptance of the reason for the absence. I will only make exceptions under the most unusual circumstances. **Important: Make note of the date of the Final Exam. Travel plans are not acceptable reasons for rescheduling the final exam.**

### Response Papers

#### Paper 1

Students will write a 650-word paper on state judicial selection and retention. For the paper student must have a clear thesis where they present their argument regarding which method of judicial selection and retention is optimal (i.e. election, appointment, or a mixture of both).

#### Paper 2 (Op-ed Paper)<sup>1</sup>

Each student will write a 750- word editorial (op-ed) similar to those that appear in the *New York Times* or *Wall Street Journal*. Using a clear and concise thesis, students will write about an issue covered in class. In the op-ed, students will advance their argument/idea and tell the reader why the issue is important. In their op-ed, students should specifically reference at least 2 sources covered in class and at least 2 sources not covered in class. Students should also have at least 1 reference to quantitative social science research.

### Participation

Maintaining an open and vigorous class discussion is essential to the success of this course. Students are expected to make frequent and informed contributions to classroom discussions and dialogue. Participation grades will be assigned on the basis of knowledge of the readings, before class preparation, in-class discussion, and activities the instructor may define. To come prepared for class you should have done the reading, be able to synthesize the main arguments or findings, and form an opinion about whether it is correct or incorrect. *Is it true? Why or why not? How do you know? How does it relate to other readings or materials from the class? Why is it important?* While regular participation is expected, quality of participation will be judged over quantity of participation.

To ensure that students are keeping up with each reading, the instructor may administer “pop” quizzes or short in-class writing assignments. The assignments will count as part of the participation grade. Participation is 10% of the overall course grade:

- A Repeated excellent comments, demonstrated engagement with the literature
- B Good, solid participation
- C Some comments but shows lack of preparation
- D Attends but does not participate

### Attendance

Students are granted two free absences. Students can use these absences for any reason but should let me know in advance. Additional excused absences include doctor's visit, religious observance, death in the family, etc. **Unexcused** absences will reduce your **overall course grade by a 1/3 of a letter grade**. Tardiness will also negatively affect your overall course grade. **A 2nd tardy (and subsequent tardies) will count as an unexcused absence**. Finally, students are expected to remain in the room during course time. Leaving class during course time can be disruptive to the learning process. Understandably, emergencies do sometimes occur so students are allowed to leave the room **once** during the semester (i.e. bathroom/water). **However, leaving the room a 2<sup>nd</sup> instance will be considered an unexcused absence outside of an emergency.**

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<sup>1</sup> Adapted from Professors David Glick, Serena Laws, and John Carey

## **Constitution Day Talk**

Students are required to attend the Constitution Day Talk on September 17<sup>th</sup> at 7:00pm and write a 1 paragraph reflection on the content of the talk.

## **Judicial News and Current Events**

Once during the semester, each student will find a current news article related to the Judicial Branch. Students will email me a link to the article, and a 2-paragraph summary of the article that explains how it relates (broadly) to topic/issue in our course.

## **ADDITIONAL INFORMATION:**

### **Late Papers**

It is essential that students submit papers on time to allow for timely feedback in advance of the subsequent writing assignment. Late papers will be penalized by 1/3 of a letter grade for every 12-hour period that they are late (i.e. a B becomes a B-).

### **Technology in the Classroom**

*Cell Phones:* Please ensure that your cell phones are on silent before coming to class. Students are expected to refrain from texting and/or surfing the internet on their phones while in class. If students are caught using their cell phone in class they receive a warning. If a student is caught using their cell phone a second time in class **their overall participation grade will drop by one full letter grade.**

*Laptops:* I ask that students refrain from bringing laptops to class. Although I understand the importance of technology in daily life, I have found laptops to be very distracting to students during class. If there is a reason that you feel necessitates your use of a laptop during class, please speak with me as soon as possible.

### **Honor Code**

I expect all students to abide by the Hamilton College Honor Code. Violations of the Honor Code will be reported to the Honor Court. For detailed information on Hamilton's Honor Code visit this website: <http://www.hamilton.edu/student-handbook/studentconduct/honor-code>.

### **Student Accommodations**

I request that any student with a documented disability needing academic adjustments or accommodations speak with me during the first two weeks of class. All discussions will remain confidential. Students with disabilities should also contact Allen Harrison in the Dean of Students Office (Elihu Root House;ext. 4021) who coordinates services for students with disabilities.

### **Student Health and Well-Being**

If you are feeling stressed, overwhelmed, anxious, or depressed or you are facing some other personal crisis that is affecting your ability to complete assignments, please let me know. There are also many resources available on campus to help and support you:

- Counseling Center ([www.hamilton.edu/offices/counselingcenter](http://www.hamilton.edu/offices/counselingcenter), 315-859-4340) located at 100 College Hill Road offers individual and group therapy, peer counselors, psychiatric treatment, and a 24-hour hotline. If you need immediate assistance, phoning the Counseling Center and selecting option 2 will connect you with a counselor, 24 hours a day, 7 days a week.
- Associate Dean of Students for Student Support, Lorna Chase (315-859-4600; [lchase@hamilton.edu](mailto:lchase@hamilton.edu))
- Associate Dean of Students for Academics, Tara McKee (315-859-4600; [tmckee@hamilton.edu](mailto:tmckee@hamilton.edu))
- Your faculty advisor, Your RA and Area Director in your residence hall

**COURSE SCHEDULE**

<b>Date</b>		<b>Topic</b>	<b>Readings</b>
Thursday (Week 1)	08/29/2019	Introduction	
Tuesday (Week 2)	09/03/2019	Law and Society	Banks and O'Brien, Ch 1 "What Legal Reasoning is and Why it Matters", excerpt (on Blackboard)
Thursday	09/05/2019	The History and Organization of U.S Courts	Banks and O'Brien , Ch. 3 <i>Federalist Paper 78</i> (on Blackboard)
Tuesday (Week 3)	09/10/2019	Federal Judiciary	Banks and O'Brien , Ch. 4 (100, 105-130) "Policy Links between the Citizenry, President, and Federal Judiciary (on Blackboard)
Thursday	09/12/2019	Federal Judiciary	"American Courts and Democracy, A Comparative Perspective"(on Blackboard) Trump Judicial Appointment articles (on Blackboard)
Tuesday (Week 4)	09/17/2019	State Judiciary	"Judicial Independence and the Majoritarian Difficulty" (on Blackboard) Banks and O'Brien, Ch4 (100-105) "The Gavel Gap" (on Blackboard) <b>Constitution Day Talk at 7:00pm</b>
Thursday	09/19/2019	State Judiciary	"Electoral Politics and Strategic Voting in State Supreme Courts" (on Blackboard) "In states with elected high court judges, a harder line on capital punishment" (on Blackboard) Justice for Sale (excerpt, Documentary)
Tuesday (Week 5)	09/24/2019	Lawyers, Litigants, and Access	Banks and O'Brien, Ch 5. (142-158) Class Visit (Daniel Cafruny)
Thursday	09/26/2019	Lawyers, Litigants, and Access	Banks and O'Brien, Ch. 5 (158-176) "State Politics and the Right to Counsel" (on Blackboard) "Public defenders nationwide say they're overworked and underfunded" (on Blackboard) "How Lubbock became the model for indigent defense in Texas" (on Blackboard)
<b>Sunday</b>	<b>09/29/2019</b>	<b>PAPER DUE</b>	<b>Judicial Selection/Retention Paper Due by 4:00pm</b>
Tuesday (Week 6)	10/01/2019	Civil Law	Banks and O'Brien, Ch. 8 "United States Tort Reform Wars" (on Blackboard)
Thursday	10/03/2019	Civil Law Controversies	"An Empirical Analysis of Tort Tales" (on Blackboard) "A Factory's Closing Focuses Attention on Tort Reform" (on Blackboard) "Judges: The Problem and Solution to America's Judiciary Mess" (on Blackboard)
Tuesday (Week 7)	10/08/2019	Civil Law Controversies	Hot Coffee (excerpt, Documentary)
Thursday	10/10/2019	Catch up & Review	Catch up & Review
Tuesday (Week 8)	10/15/2019	Midterm	Midterm
Thursday	10/17/2019	Fall Recess, No Class	Fall Recess, No Class
Tuesday (Week 9)	10/22/2019	Criminal Law	Banks and O'Brien, Ch. 7
Thursday	10/24/2019	Criminal Law Controversies	<b>U.S. Jury System</b> "The Jury Sunshine Project" (on Blackboard) "Reasonable Doubts about the Jury System" (on Blackboard)
Tuesday (Week 10)	10/29/2019	Criminal Law Controversies	<b>Eye Witness Testimony</b> "The Problem with Eye Witness Testimony" <i>Stanford Journal of Legal Studies.</i> " (on Blackboard)

			“Why Science Tells Us Not to Rely on Eyewitness Accounts” (on Blackboard) “A Judge’s Guidance Makes Jurors Suspicious Of Any Eyewitness” (on Blackboard) Eye Witness (excerpt, documentary)
Thursday	10/31/2019	Jurisdiction & Access	Banks and O’Brien, Ch 6 “The Influence of Amicus Curiae Briefs on U.S. Supreme Court Opinion Content” (on Blackboard)
Tuesday (Week 11)	11/05/2019	Kenneth Hartmann Visit*	Fourth City Essays (available online)
Thursday	11/07/2019	The Appellate Process	Banks and O’Brien, Ch. 9 <i>Deciding to Decide</i> (excerpt, Blackboard)
Tuesday (Week 12)	11/12/2019	Statutory Interpretation	“Statutory Interpretation” (on Blackboard)
Thursday	11/14/2019	Statutory Interpretation	<i>A Matter of Interpretation</i> (excerpt, Blackboard) <i>Active Liberty</i> (excerpt, Blackboard)
Tuesday (Week 12)	11/19/2019	Constitutional Interpretation	“Constitutional Interpretation” (on Blackboard) “Should the Constitution Evolve or Remain Static” (on Blackboard)
Thursday	11/21/2019	Constitutional Interpretation	<i>A Matter of Interpretation</i> (excerpt, Blackboard) <i>Active Liberty</i> (excerpt, Blackboard) “Should the Constitution Evolve by Interpretation or by Amendment Only?” (on Blackboard)
<b>Friday</b>	<b>11/22/2019</b>	<b>PAPER DUE</b>	<b>Op-Ed Due, by email by 4pm</b>
Tuesday	11/26/2019	Thanksgiving Break	Thanksgiving Break
Thursday	11/28/2019	Thanksgiving Break	Thanksgiving Break
Tuesday (Week 14)	12/03/2019	Impact & Implementation	Banks and O’Brien, Ch 10 “Early Abortion Bans, Which States Have Passed Them” (on Blackboard) “Why anti-abortion groups are backing away from abortion bans” (on Blackboard)
Thursday	12/05/2019	Impact & Implementation	“A Timeline of the Legalization of Same-Sex Marriage in the U.S.” (on Blackboard) <i>Obergefell v. Hodges</i> (on Blackboard) <i>United States v. Windsor</i> (on Blackboard)
Tuesday (Week 15)	12/10/2019	The Fight for Court Control	Supreme Revenge (documentary)
Thursday	12/12/2019	Catch up & Review Session	
Friday	12/20/2019	Final Exam	<b>Final Exam, 9:00am to 11:00am</b>

**This Schedule is TENTATIVE and subject to change**

