Background:

This is an advanced seminar on the courts, judicial process, and judicial behavior. It is designated as a "research seminar." That is, a major focus of the seminar will be to teach how to conduct research on law and courts and the seminar will require students to complete a major research paper. It is assumed that students will enter the course with a substantial substantive and methodological background for the study of the courts.

Orientation and Goals

The goals for this semester will include:

a. to provide an overview of the most important scholarship on the behavior of judges and on courts as political and legal institutions, with a primary focus on courts in the US
b. to sharpen your analytical skills.
c. to prepare students to do empirical research on courts.
d. to increase the capabilities of students to effectively write for social science journals and professional conventions.

In order to accomplish these goals, students will be expected to:

1. read and critique the written work of the other students in the class.
2. come to each class prepared to discuss and critically analyze the assigned reading for the class. Each student's preparation for each class should be based on the assumption that they will be responsible for leading and stimulating the class discussion of the most significant and interesting topics from the assigned reading. Every student will be expected to participate in discussion every class.
3. practice the art of writing research questions and literature reviews.
4. write an original empirical paper on the courts which is suitable for submission for publication to an appropriate professional journal.
5. Participate in relevant professional activities of the department.

Grades:

20% Class discussion
30% short papers – critical assessments of reading & research questions suggested by assigned reading
50% Empirical Research Paper
In preparation for each week’s class:
There will be some core reading (usually one book) that everyone will do and a much larger set of readings for those who anticipate pursuing research in the area. In addition to the general preparation for class that every student will be expected to do each week (see #1 and #2 above), each student will perform each of the following roles twice during the semester:

1) Write a mini-research design (about 5 pages) for the most important question suggested by the week’s topic that needs further research. Focus on data & measures & methods.
2) Write a critical assessment of a larger set of reading related to the week’s topic – you should focus especially on inadequacies in theory, data, measures. What are the limits to our ability to generalize from the literature?
3) Suggest research question related to the assigned topic and then write a theory/literature review in the style of the introduction/lit review section of a journal article.

All of the above will be distributed in advance (by 6:00 P.M. on Sunday) to all in class and all will be critiqued in class. In fact, the critique of these three papers will be a main activity of each class.

Short papers will be graded rigorously and returned promptly.

Note: your major empirical research paper may be an extension of one of your short papers; in fact, you are encouraged to adopt this strategy.

CODEBOOKS AND DATA BASES:


Spaeth, Harold J. 2002. *Vinson-Warren Court Database (1946-1968 Terms)* (Updated: September 25, 2002) and *The Burger Court Database (1969-1985 Terms)* (Updated: September 25, 2002). Conference vote data plus final vote data. The conference vote data for 1946-1968 were collected by Professor Jan Palmer of Ohio University. The conference vote data for 1969-1985 were collected by graduate students under the direction of Professor Lee Epstein of Washington University. The database and its documentation are available to scholars at the web page of the S. Sidney Ulmer project, [http://www.as.uky.edu/polisci/ulmerproject](http://www.as.uky.edu/polisci/ulmerproject)
Spaeth, Harold J. 2002. *Justice-Centered Rehnquist Court Database (1986-1998 Terms)* (Updated: March 5, 2002). The transformation of the date from case- to justice-centered format was accomplished by Professor Sara Benesh of the University of New Orleans (now at the University of Wisconsin-Milwaukee). The database and its documentation are available to scholars at the web page of the S. Sidney Ulmer project, [http://www.as.uky.edu/polisci/ulmerproject](http://www.as.uky.edu/polisci/ulmerproject).


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**Schedule**

**Week 1 - Jan.14**  **The Beginning of the Debate**

**Required Reading**


**Other General Literature on Researching Courts**

Week 2 – Jan 28- ATTITUDINAL MODEL 1-

Required reading:
Students who took Comparative Courts, read:
  Osteberg & Wetstein (2007), Attitudinal Decision Making in the Supreme Court of Canada
Others read:
  Robertson (1998), Judicial Discretion in the House of Lords

Other Important Literature on Attitudinal Approaches

(Measuring Judicial Attitudes, Preferences, and Ideology)


(Social Background and Personal Attribute Models)


Week 3- Feb. 4- ATTITUINAL MODEL 2 –

**Required reading:**

*AJPS* 1996 (40: 971-1082) **symposium on Attitudinal Model**

Other Important Literature on Attitudinal Approaches

Spaeth, Harold J., and Jeffrey A. Segal. 1999. *Majority Rule or Minority Will*. New York:
Cambridge University Press.


(lower courts)


Week 4- Feb. 11- **LEGAL MODEL 1**

**Required reading:**


Other Important Literature on Legal Approaches


Posner, *The Problems of Jurisprudence*

Rehnquist, *The Supreme Court: How it was, how it is*.


Dworkin, *A Matter of Principle*

Carter, Lief. *Reason in Law*

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**Week 5- Feb. 18 - LEGAL MODEL 2 –**

**Required reading:**

Klein (2002), *Making Law in the United States Courts of Appeals*


Other Important Literature on Legal Approaches


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**Week 6 – Feb. 25 - STRATEGIC 1 –**

**Required reading:**

*Maltzman, Spriggs, Wahlbeck (2000), Crafting Law on the Supreme Court*


**Other Important Literature on Strategic Approaches**


Rogers, James, Roy Flemming & Jon Bond, eds., 2006. *Institutional Games and the US Supreme Court* (University of Virginia Press)
(The Executive Branch and Courts)

(Voting Fluidity)

(Opinion Assignment)
Brenner, Saul. 1982. “Strategic Choice and Opinion Assignment on the U.S. Supreme Court: A Reexamination.” *Western Political Quarterly* 204-211.

(Coalition Formation)

*The Opinion Writing Process*


**Week 7 – Mar. 3 - STRATEGIC 2 - SOP games –**

**Required reading:**

**Langer (2002), Judicial Review in State Supreme Courts**


**Other Important Literature on Strategic Approaches**


**(SOP Games)**


(March 10 – No class - Spring Break)

Week 8- Mar. 17- **AUDIENCES** – **Required reading:**

*Baum (2006), Judges and their Audiences*
Other Important Literature at least tangentially related to audiences

(Litigants & Lawyers)


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Week 9- Mar. 24 - **JUDICIAL SELECTION** –

**Required reading:**


Other Important Literature on Judicial Selection


**(The Selection of Federal Judges)**


(Selection of State Judges)


(Judicial Retirements)


(Presidential Appointment Effects)


Week 10 – Mar. 31 - JUDICIAL IMPACT/ POLICY MAKING
– OR AGENDA SETTING

**Required reading:**


OR


Other Important Literature on Impact or Policy Making


Baier, Vanessa. 2006. *Answering the Call of the Court: How Justices & Litigants Set the Supreme Court Agenda* (Univ of Virginia Press)


**Issue Fluidity**


**Interest Groups**


(public opinion)


(The Effect of Public Opinion on Judicial Behavior)


Caldeira, Gregory A. 1986. “Neither the Purse Nor the Sword: Dynamics of Public Confidence in the Supreme Court.” American Political Science Review 80(December):1209-1226.


**Weeks 11-14 – Student Presentations**

Presentations based on student research papers

Each student will make a 10 minute presentation based on part of their research paper each of the last four weeks of the semester, followed by about 20 minutes of discussion of that presentation. Specific parts of the research paper to be presented indicated for each week.

**Week 11- April 7 – Student Presentations**

1. **Research question & theory & answer to “so what?” question**  
Email draft of first 2-4 pages of your paper to all in class in advance

**Week 12- April 14 – Student Presentations**

2. **Research design & Methods**  
Email draft of your methods & data section to all in class in advance.

**Week 13- April 21 – Student Presentations**

3. **Overview of Results**  
Email draft of your tables and results section to all in class in advance.

**Week 14- April 28 – Student Presentations**

4. **Conclusions, implications for future research**
Email draft of your conclusions and/or discussion sections to all in class in advance.