

Course Syllabus POLS 258 Fall 2006 (5 September)

Instructor: Evan C. McKenzie

- Meetings: T/Th 9:30-10:45
- Room: BSB 337
- Course Number: 22613
- It may be necessary to tinker with this syllabus as the semester moves along. You will receive an email to that effect if and when it happens.
- Use of Blackboard for turning in written assignments is mandatory. No other form of submission is allowed, so do not email papers to me as attachments, stick them under my office door, put them in my mailbox, or send them via carrier pigeon.
- I am here to help you, and spending time with students one-on-one is part of my job, so please do not hesitate to contact me by email or in person.

Contact Information:

- Office--BSB 1122D
- Office Hours--T/Th 11-12 and by appointment
- Telephone--312-413-3782
- email-- mckenzie@uic.edu

Text:

- David W. Neubauer and Stephen S. Meinhold, The Judicial Process: Law, Courts, and Politics in the United States (4th ed.) Thomson/Wadsworth (2006) Note: You need the version with InfoTrac, which is available from the bookstore. Repeat: the InfoTrac is required--not optional.

Course summary:

This course is an introduction to the court system, taught within the context of what both lawyers and political scientists believe about law, courts, justice, and politics. Most of the students are at least a little bit interested in applying to law school, and nearly all are interested in the kinds of issues that are dealt with in the legal system.

Unit One of the course is "The Legal System." That unit is about the institutions of law (law itself and the federal and state courts), the interpreters of the law (lawyers and judges), and the consumers of law (litigants, interest groups, and the media). Unit Two of the course is about "Courts," and there we will go into detail about how trial and appellate courts function in both civil and criminal cases. Look over the reading and assignment schedule below and you will see the topics we will cover.

This is not a case law course, like Constitutional Law (POLS 353) and Civil Liberties (POLS 354). Some of you have taken or will take one or another of them. Those courses look at law the way judges and attorneys see it. Legal professionals analyze fact patterns using the structure of law as a framework to identify issues and resolve those issues. They learn a body of law that they incorporate into their way of thinking about human affairs.

This course is different. Here we look at law and legal institutions more from a social scientific perspective than a legal one. You will note that most of the citations in your text are to social science books and articles, with some material from major newspapers as well. You will be learning a good deal about how the legal system works and what people with "law jobs" do. We will cover, for example, how lawyers are educated and socialized into their profession. But you will not be learning to

think the way lawyers do, or assimilating a body of legal rules to use in analyzing issues and conflicts. That is for other courses.

However, while we will not be systematically learning law, you will certainly get a smattering of law in our discussion of social and political issues that have made their way into the legal system. Many of these issues are controversial, and we will be talking about those issues. Here we need to make a distinction between *unsupported personal opinions* (the kind that everybody has) on controversial issues, and *informed opinions* that are supported by evidence, reason and logic. In your class participation and writing assignments, please avoid the former and emphasize the latter.

Here is an illustration of that distinction. If you wish to express an opinion, and if somebody asked you, "*Why do you believe that?*" and your answer is "*I don't know--I just do,*" or "*Because I'm right and you're wrong,*" or even worse, "*Because people who don't share my view on this issue are either evil or stupid,*" then we are in the realm of unsupported personal opinion. You are just expressing pure value judgments. You have one strong opinion that you can't defend, and maybe somebody else has a different strong opinion that he or she can't defend. So what? Where does that lead us? I would say, "To the Jerry Springer Show." Should we begin talking louder, then screaming at each other, and finally throw chairs across the room?

But if the answer to the question "*Why do you believe that?*" is, "*Because it says on page 16 that...*" or "*Because if the survey I read about is correct, it means that...*" or something similar, then we are in the realm of informed opinions. With unsupported personal opinions, nobody can have a serious discussion with you. But with informed opinion, others can talk with you about your factual premises, your reasoning, your logic, and the relationship of all that to your conclusions.

Past experience tells me that some students prefer to express unsupported opinions because they can do so without bothering to prepare for class. They enjoy talking, and figure they will accumulate participation points or complete writing assignments without doing any real work. I am determined to prevent that, so I will insist that you be prepared to support your opinions. Nobody gets points just for being opinionated.

Experience also tells me that some instructors think the classroom is a great place to express their own political ideology and opinions. These instructors like to hold forth on matters of partisan politics and foreign and domestic policy, regardless of relevance to the matter being studied and whether or not the opinion is within the instructor's area of professional specialization and expertise. They set a tone for the students that legitimizes one set of views--those that agree with the instructor's--and delegitimizes others. In classes like that, some students even feel they can ridicule other students, and the classroom becomes a little political rally or indoctrination session. I will try very hard not to behave like that or let others do so. I value and respect your (informed) opinions, no matter what they are, and I will do my best to make sure that each and every one of you can feel safe about speaking in class. However, you need to expect questions about the basis for your beliefs, and you need to understand that others are free to disagree with you.

I certainly have *professional* opinions about matters we will be studying (Should the 9th Circuit be split? Should the exclusionary rule be abolished? Is there enough low-cost legal assistance for people of modest means? Is the American system of legal education in need of reform?) I will be trying to get you to think about those issues from more than one perspective. You may deduce, though, (correctly or not) that I think one way or another myself. Fine--maybe I do. After several decades of training in social science and the practice of law, I have some considered professional opinions on matters that I know something about. I will try to identify those opinions pretty clearly for you. You are free to think I am dead wrong and there is no reward for agreeing with me or punishment for disagreeing. But I won't harangue you about who I think you should vote for, what social values you should adopt, or whose political cuisine reigns supreme.

Course grades:

Your course grade will be determined as follows:

1. Mid-term examination = 200 points
2. Final examination = 250 points
3. Film paper for Unit One = 100 points
4. Film paper for Unit Two = 100 points
5. 15 weekly short papers on "Controversies and Exercises" = 10 points each for 150 points total. I will explain how to do this in class, but essentially you write a short paper (2 pages is the maximum) and submit it via Blackboard by 9:30 on the due date. You must do two things in *separate and clearly labelled sections*: 1) **Controversy section**: discuss the assigned controversy see the list on p. 18, and find the box labelled "*Debating law, courts, and politics*" in each chapter (zero points for doing the wrong one); 2) **Exercise section**: do one of the "Infotrack College Edition Exercises" of your choice. Show me that you did the readings and understood them. Merely expressing unsupported personal opinion or relating personal experiences is insufficient. *You must deal with the assigned reading material.*
6. Court observation paper in Unit Two = 100 points. This is described on the Course Information page of the Blackboard site.
7. Class participation and attendance = 100 points. You can participate in class, and you can also participate using the on-line discussion boards. Informed participation is what I am looking for--not just being opinionated (see above). There will be significant point deductions (potentially taking your score all the way down to zero) for breaches of civility. This would include, for example, coming to class unprepared, inattentiveness, talking out of turn, conversing during class, being rude or intolerant toward your classmates or me, name-calling and ridicule, and other forms of incivility. Any student missing more than six classes (with lateness counting as 1/2 an absence) is subject to receiving a zero for participation and attendance.
8. Total points possible = 1000. I will rank students from highest to lowest point total and assign the same course letter grades to students with similar final point scores. The usual 90, 80, 70, 60 breaking points are good guides as we go through the semester, and they are floors above which you can be assured of the normal grade. That is, a 900 plus point total will certainly earn you an A. But normally the final letter grade ranges go a bit below those numbers. Typically the bottom of the A range is in the high 80s--such as 890 points, for example. But that depends on the way the scores group at the end. I also make informal allowances for bad midterm exams at my discretion. If I think your midterm exam score is the only thing keeping you from getting a higher letter grade that you otherwise deserve, and if your final exam is far better than the midterm (for example, if all your other assignments were 90 points or above but you received a 65 on the midterm and then got a 93 on the final) I generally disallow the midterm and give you the higher grade that you obviously deserve.

Course schedule, assignments, and readings:

- These readings are to be done by Tuesday of the week indicated. All weekly papers are due Tuesday of the week indicated except where specified differently on this syllabus.
- I do not count absences as excused. You are either here or you are not. I don't accept late papers or give makeup exams. The Blackboard boxes close automatically at set times, after which the assignments cannot be submitted. The exceptions are two: religious holidays that are recognized by the University and serious, documented emergencies. Nothing you could have done in advance is excused in either event. In other words, if you know in advance that you can't do something, and it can be done early, you can't do it late. You have to tell me about it in advance and do it early. Trips out of town, non-emergency medical appointments, and the like require doing things in advance.
- Academic dishonesty will be dealt with severely.
- One more time: Civility is required and incivility will have consequences. Be on time, be prepared, and at all times be respectful of me and your fellow students.

Weeks are identified by the date for Tuesday of that week. In all cases, you read the chapter of your text that bears the number of the week. Read ch. 1 for week one, ch. 2 for week 2 etc.

1. August 29 Unit One: Introduction to course; Law, courts, and politics. Your first paper should consist of first, a statement about who you are and what you want from the course; and then one of the web or infotrack exercises. Paper is due Thursday. Thursday's class is cancelled because I will be in Philadelphia at the annual meeting of the American Political Science Association.
2. September 5 Law and legal systems (controversy: computers and the law, p. 48)
3. Sept. 12 Federal courts (controversy: courts and the war on terror, p. 83)
4. Sept. 19 State courts (controversy: should we end the war on drugs? p. 119)
5. Sept. 26 Lawyers and legal representation (controversy: does the US have too many lawyers? p. 156)
6. October 3 Judges (controversy: should the President or the Senate pick federal judges? p. 180)
7. Oct. 10 Mobilizing the law--litigants, interest groups, court cases, and the media; Mid-term examination October 6. (controversy: Can courts bring about social change? p. 224)
8. Oct. 17 Unit One Film Paper Due on or before Tuesday, Oct. 17 at 9:30 am via Blackboard. Begin Unit Two: Courts; Trial courts--the preliminary stages of criminal cases (controversy: should the exclusionary rule be abolished? p. 263)
9. Oct. 24 Trial courts--preliminary stages of criminal cases--bargaining and sentencing in criminal courts (controversy: Should the death penalty be abolished? p. 301)
10. October 31 Trial courts--the preliminary stages of civil cases (controversy: Should limits be placed on punitive damages? p. 328)
11. November 7 Trial courts--dispositions of civil cases (controversy: who should be held responsible for tobacco related deaths? p. 356)
12. November 14--Trial (controversy: should jurors engage in jury nullification? p. 401)
13. November 21--Appellate Review; the appellate process (controversy: innocents on death row? p. 422) Thursday, November 23, is a holiday.
14. November 28--The Supreme Court--deciding what to decide (controversy: should congress or the Court decide who decides? p. 468) Court Observation Paper due November 28 by 9:30 am via Blackboard.
15. December 5--The Supreme Court--the justices and their decisions (controversy: the rejection of Robert Bork p. 487) Second Unit Film Paper due on or before December 5 at 9:30 am via Blackboard.
16. December 11-15 Finals week. Final exam as scheduled by University.