

**POLITICAL SCIENCE 245 (UPDATED 8/6/19)**  
**LAW, COURTS AND POLITICS**  
**W. R. WILKERSON (HE/HIM/HIS)**

**SUNY ONEONTA**  
**FALL 2019**

**WHAT THIS COURSE IS ABOUT**

POLS 245 is a course where students learn about the intersection of law, courts, and politics in the US. It is a great topic with a lot of excellent material and students like the course. To fully understand the American legal system we will examine the work of judges, lawyers, litigants, politicians, and juries. Similarly, we will examine what goes on inside and outside the courtroom. Among the questions that we address are:

- How do courts differ from other political institutions in making law?
- What are the implications of the adversary system on justice?
- How does the law in action differ from the law on the books? How do courts operate day-to-day?
- Who are judges? What is their role in the system?
- What is the role of lawyers in the legal system?
- What do civil courts and criminal courts do? How do they differ?
- How do juries do their work?
- What do appellate courts do and how do they do it?
- How do courts interact with other political institutions?
- What impact do courts have on American politics and American life?
- How does race, class and gender impact the various topics we cover?

This success of this course depends on your informed participation; before each class you should do the assigned reading and think about the questions noted in the syllabus and in any class notes posted on Blackboard. The format will be structured discussion with some lecture. We will learn some facts, but we will also spend time on understanding broad concepts and themes and applying them. In addition to three exams you will complete a series of assignments: essays, reactions, observation, and in-class group work.

**WHAT I WILL HELP YOU LEARN THIS SEMESTER**

By the end of the semester, I hope that you—my students—will:

- understand key facts and concepts in the study of law and courts;
- write clearly and cogently about law and courts—using appropriate language—developing a clear thesis, and supporting that thesis with evidence;
- take positions on, and argue for that position, on issues relevant to law and courts.
- collect, describe and interpret qualitative data.

**CONTACT INFORMATION**

*Classroom* Fitzelle 131, TTh 2:30 p.m.–3:45 p.m.

*In Person* Schumacher 14J. 607-436-3272. Office Hours: M 12:30 p.m. — 2:30 p.m., Th 4:00 p.m. — 5:00 p.m. and at other times announced weekly (and by appointment, we will find a time that works)

*Electronic* bill.wilkerson@oneonta.edu & <https://blackboard.oneonta.edu>  
Sign up for remind.com as noted in class for text messages.

*Department* Schumacher 10. -3522. Secretary: to be announced. Hours: to be announced M–F.

## BOOK TO PURCHASE

The book has been ordered through the campus bookstore. It is also available online. Please buy this edition.

Miller, Matthew. *Judicial Politics in the United States*. Boulder, CO: Westview Press, 2015. ISBN: 978081334679.

Stern, Gerald. *The Buffalo Creek Disaster*. New York: Vintage Books, 1977. ISBN: 9780307388490.

Note: Other reading is required and will be distributed in class or through Blackboard.

## TOPIC OUTLINE & READING ASSIGNMENTS

The outline lists dates, topics, required reading, and questions to consider for each section of the course. Reading assignments vary in length, so plan ahead. You are responsible for all reading whether it is covered in class or not. I do my best to stick with the work as outlined below, but I reserve the right to alter this outline if I think it is important or necessary.

Key to readings: The textbook assignments are referred to as “JudPolUS” The other book and other readings are listed by authors last name or title. Readings not in the textbook are noted with \*\*. They will be handed out in class and be posted in Blackboard. *Expect that a few short articles from news sources to be added during the semester.*

I will do my best to stick to this outline, but I reserve the right to change it as I think appropriate.

### 1. Actors and institution in American law, courts, and politics

**Introduction to the Class** T 8/27

**Law, courts & politics in the United States** Th 8/29 & T 9/3

Read JudPolUS chapter 1; \*\*Mather

Questions to consider ¶ How does law intersect with politics? ¶ How are courts different than other political institutions? ¶ How is law defined by JudPolUS? ¶ What are the types of law? ¶ Where do courts fit in the American legal system? ¶ What does law mean to you? ¶ Why do we have courts? ¶ What are the implications of the adversarial process? ¶ What does it mean to say that the “law on the books” differs from the “law in action”? ¶

Note: the last few questions will not be fully answered in class, rather these are questions to ponder for the semester.

**Court structure in the United States** Th 9/5 & T 9/10 (partial)

Read JudPolUS chapter 2; \*\*NY Times series

Questions to consider ¶ How are courts in the United States organized? ¶ How does the organization of states and federal courts differ? ¶ Why is the American court system so fragmented? ¶ What are the implications of this fragmentation? ¶ What does the term “jurisdiction” mean? ¶ What is the difference between a trial court and an appeals court? ¶ How are New York’s courts different from those of other states?

**Selecting American judges** T 9/10(partial) & Th 9/12

Read JudPolUS chapter 3; \*\*Cann et al, \*\*Cobb.

View “Justice For Sale”

Listen to NPR story on judicial impeachment

Questions to consider ¶ How are judges selected? ¶ What are the pros and cons of each selection system? ¶ Does any one system produce more qualified judges? ¶ How do “Justice For Sale” and the Iowa recalls help us understand judicial selection? ¶ What is the collective portrait of judges in term of race gender, racial, and other socioeconomic characteristics? ¶ Are the collective portraits of appellate judges selected Democratic and Republican presidents different?

**Legal education and legal practice** T 9/17 & Th 9/19

Read JudPolUS chapters 4; \*\*Kritzer

Questions to consider ¶ How are lawyers trained in the US? ¶ What do lawyers do? ¶ How has the legal profession changed? ¶ Do lawyers perform their jobs well? ¶ How are lawyers gatekeepers? ¶ What are the implications of this gatekeeping? ¶ How is the legal profession stratified? ¶ What is the collective portrait of lawyers?

## Exam #1

T 9/24

### 2. Trial courts

#### Civil courts: litigant & dispute resolution Th 9/26 & T 10/1 (partial)

Read JudPolUS chapter 6, \*\*Leonhardt; \*\*Sanger-Katz

View “The Trouble with Lawyers”

Questions to consider ¶ What is the disputing pyramid? ¶ Why is the grievance so important in the adversary process? ¶ How do different dispute processing arenas differ? ¶ Who are one-shotters and who are repeat-players? Does it matter which you are? ¶ What is the litigation explosion? ¶ What does medical malpractice tell us about disputing?

#### An introduction to tort law T 10/1 (partial) — T 10/8

Read \*\*Pease v. Sinclair; \*\*Labor in an Industrializing Society”

View “Hot Coffee”

Questions to consider ¶ What are the goals of tort law? ¶ What is negligence and why is it important in tort law? ¶ What are different ways of apportioning blame in tort law? ¶ What are the different types of damages? ¶ What is the story the film tells? ¶ Were you familiar with the story of the McDonald’s cup of coffee? ¶ What are those telling the story trying to communicate through the story? ¶ Is this an accurate portrayal? ¶ What is tort reform? ¶ What does the film tell us about torts and tort reform?

#### Civil litigation: a case study of the Buffalo Creek disaster Th 10/10 — Th 10/17

##### Note: No class on T 10/15

Read Stern, entire

Web Resource <http://www.wvculture.org/history/buffcreek//bctitle.html>

Questions to consider ¶ How was this case a typical and an atypical tort case? ¶ How did Stern get the case in federal court? Why did it matter? ¶ What are the major legal issues in the Buffalo Creek dispute? ¶ Was the settlement fair? ¶ How was Stern paid? Was the fee fair? ¶ Is there a difference between the interests of the plaintiffs and the lawyers? ¶ What does this case tell us about the limitations of the law in bringing about social change?

#### Criminal law and the criminal justice process: a brief introduction T 10/22

Read JudPolUS chapter 5; \*\*Packer

Questions to consider ¶ Should the criminal justice system emphasize preservation of liberty or the maintenance of social order? ¶ What is the purpose of criminal law? ¶ Why use the force of the state? ¶ What is the scope of criminal law? ¶ What should be the scope of criminal law? ¶ How do the preliminary stages of criminal court process work?

#### Processing criminal cases: plea bargaining and trial Th 10/24 — Th 10/31

Read \*\*Phippin; \*\*LaFraniere & Lehren; \*\*Sides; \*\*Gonnerman

View “The Plea;” “Gideon’s Army”

Listen to Episode one of “Serial” season 3

Questions to consider ¶ Which of Packer’s two models does the criminal justice system depicted in assigned materials? ¶ What is the relationship between what lawyers learn in law school and what they practice in the courthouse? ¶ Why are so many cases disposed of through plea bargaining? ¶ How do different plea bargaining systems work? How do they differ? ¶ Is plea bargaining a good idea? ¶ What are the roles of judges, prosecutors, defense attorneys and defendants in the criminal justice process you saw in “The Plea”, “Gideon’s Army”, and “Serial”? ¶ What guidelines are judges given in making sentencing decisions? ¶ How do American’s view the system? ¶ Are all Americans treated the same by the system or does the system vary in how it treats different classes of people? ¶ How can we explain sentencing variation within states and among the states?

**Trials and juries: a case study** T 11/5 & Th 11/7

Read Review JudPolUS chapters 5 & 6; \*\*Burnett

View “Inside the Jury Room”

Listen NPR story on non-unanimous juries

Questions to consider ¶ How do trials work in practice? ¶ What are the roles of the judge, the lawyers, the jury, the defendant and witnesses? ¶ What do jury members think about while deliberating? ¶ What problems exist in the jury system? ¶ What solutions have been proposed?

**Exam #2** T 11/12

**3. Appeals Courts**

**Appellate court process** Th 11/14 & T 11/19

Read JudPolUS chapter 7

Questions to consider ¶ Based on our discussion of dispute processing, why are *any* cases appealed? ¶ How do appeals courts differ from trial courts in terms of how they work and the decisions they make? ¶ What are the steps in the appellate process?

**Appellate court decision-making** Th 11/21 & T 11/26

**Note: No class Th 11/28**

Read JudPolUS chapter 8; \*\*Epstein & Knight

Questions to consider ¶ Why is the US Supreme Court considered so important? ¶ How does the Court decide what cases to hear? ¶ What cases are most likely to be heard? ¶ How do political scientists explain the decisions that the Court makes? ¶ Does law or politics guide decision-making or is it a combination of both? ¶ What is the impact of Supreme Court decisions on American life?

**4. The courts and other political institutions**

**The impact of courts** T 12/3 — Th 12/5

Read JudPolUS chapters and \*\*articles assigned to groups

Questions to consider ¶ How do courts interact with other government institutions? ¶ What role do interest groups play? ¶ What role does public opinion play? ¶ What factors matter in understanding whether decisions are implemented?

**Exam #3 & Take Home Essay** Th 12/12, 2:00 p.m.

Questions for the take home as well as assignment guidelines are found later in this syllabus

Questions to consider ¶ What have you learned this semester about the role of courts in the United States? ¶ How re courts political institutions? ¶ What are the roles of litigants, lawyers and judges in the legal process?

## **ASSIGNMENTS AND GRADING**

This course will use a grading system, specifications grading, this semester, that is likely new to you. While the assignments will be similar to assignments I have used in the past, and that you see in other courses that you are taking, how they are assessed and how they will be counted towards earning a grade are likely different. Below I will explain specifications grading, your assignments, how you will earn your semester grade, and finally tokens, an important part of specifications grading.

### **Specifications grading<sup>1</sup>**

Specifications grading is an approach to grading created by Linda Nilson, the Founding Director of the Office of Teaching Effectiveness and Innovation at Clemson University. Specifications grading includes three primary elements:

1. Assignments are graded as Satisfactory/Unsatisfactory where the requirements for Satisfactory are set at approximately B-level. Grading is not Pass/Fail. In order to earn credit, work must be high quality and must meet all the specifications the instructor has outlined for it. The instructor provides a clear list of the specifications required for credit for each assignment.
2. Specifications grading builds in opportunities to revise unsatisfactory work and other opportunities for flexibility with tokens. Students begin the course with a fixed number of virtual tokens and may be able to redeem tokens for opportunities to revise and resubmit unsatisfactory work, to retake an exam, or to receive an extension on an assignment deadline.
3. Course grades are assigned on the basis of bundles of assignments that a student has satisfactorily completed. Higher grades require the completion of bundles with more work and more challenging work.

### **Why use specifications grading?**

Specifications grading offers several advantages over traditional weighted-average grading approaches. Specifications grading:

- Makes it easy for students and instructors to track progress and to identify students' strengths and weaknesses.
- Promotes a clear connection between class performance and specific learning outcomes.
- Provides a mechanism for improving unsatisfactory work.
- Rewards mastery instead of a "hunt for partial credit" strategy.
- Provides students with clear information about how much work the letter grade they want to achieve demands from the first day of class.

### **Want to learn more?**

The resources below provide more detailed discussions of specifications grading:

Nilson, Linda. 2014. *Specifications Grading: Restoring Rigor, Motivating Students, and Saving Faculty Time*. Sterling, VA: Stylus Publishing.

Nilson, Linda. 2016. "Yes, Virginia, There's a Better Way to Grade." InsideHigherEd.com January 19. <https://www.insidehighered.com/views/2016/01/19/new-ways-grade-more-effectively-essay> (June 6, 2017).

Talbert, Robert. 2014. "4 þ 1 Interview: Linda Nilson." The Chronicle Blog Network: Casting Out Nines, November 25. <http://www.chronicle.com/blognetwork/castingoutnines/2014/11/25/41-interview-linda-nilson/> (June 6, 2017).

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<sup>1</sup> This description is borrowed from: Blackstone, Bethany and Elizabeth Oldmixon. Specifications Grading in Political Science, *Journal of Political Science Education*, 15:2, 191-205.

## Assignments

### Exams

There are three exams; dates are noted on the class schedule. Each exam will be divided into two portions: a basic exam made up of a combination of objective questions (multiple choice, identifications), and an advanced exam made up of short answer, short essay, and essay questions. Advanced exam essay questions will be posted in advance. Exams will be graded on a satisfactory/unsatisfactory basis. The basic exam requiring earning 70%. Advanced exams will be held to a B standard.

### Final take home essay

There will be a final essay, due at the end of semester, for students wishing to earn an A or a B in the course. Essay question options and the assignment guidelines are listed on Blackboard and will be discussed early in the semester. This assignment will be graded on a satisfactory/unsatisfactory basis with B-level work required to earn a satisfactory grade.

### Judicial system field research project

This project can be completed as part of the A-level bundle or as part of the B-level bundle. Guidelines will vary by bundle, but in either case you write an essay where you will report on and analyze either lawyer interviews or two court visits that you will make during this semester. This assignment will be graded on a satisfactory/unsatisfactory basis with B-level work required to earn a satisfactory grade. A detailed assignment is on Blackboard and will be discussed early in the semester.

### Jigsaws

Twice during the semester we will work in groups over a two or three class period to read and understand a book or a set of readings. There will be short writing assignments and group worksheets to complete for this assignment. This assignment will be graded on a satisfactory/unsatisfactory basis with B-level work required to earn a satisfactory grade. Details later in the semester.

### Small assignments & attendance

Small assignments are intended to encourage you to read and view. Attendance is important to your success. There will be 10 small assignments that will generally be turned in in advance of class, a few may be completed in class. Assignments will be graded on a satisfactory/unsatisfactory basis with B-level as the standard. These assignments will range from a few multiple-choice questions to writing 25 words to 400 words in response to a reading or a video. Small assignments and attendance will be used to assign +/- grades as noted below.

### Earning a grade

The table below describes what assignments you must complete to earn grades in this course.

To earn:	Complete all of the following at the <i>satisfactory</i> level:
<b>A</b>	<ul style="list-style-type: none"><li>• Three basic exams</li><li>• The A-level judicial system field research project</li><li>• Two jigsaws</li><li>• One advanced exam</li><li>• The final essay</li></ul>
<b>B</b>	<ul style="list-style-type: none"><li>• Three basic exams</li><li>• The B/C-level judicial system field research project</li><li>• Two jigsaws</li></ul> and one of the following: <ul style="list-style-type: none"><li>• One advanced exam</li><li>• The final essay</li></ul>
<b>C</b>	<ul style="list-style-type: none"><li>• Two basic exams</li><li>• One jigsaw</li></ul> and two of the following: <ul style="list-style-type: none"><li>• The second jigsaw</li><li>• The final essay</li></ul>

	<ul style="list-style-type: none"> <li>• The B/C-level judicial system field research project</li> <li>• One advanced exam</li> </ul>
<b>D</b>	<ul style="list-style-type: none"> <li>• Two basic exams</li> </ul>
<b>E</b>	<ul style="list-style-type: none"> <li>• Assigned if the requirements for D are not met.</li> </ul>

You can earn up to 75 participation points for attendance and small assignments: 1 point for attendance up to 25 points and 5 points for each of 10 small assignments for a potential total of 50 points. Pluses and minuses will be established using these point in the following way:

A, from B to B+, from C to C+, or D to D+	62 points
Drop from A to A-, stays at B, stays at C, stays at D	52-61 points
Drop from A to B+, drop from B to B-, drop from C to C- , or drop from D to D-	51 or fewer points

### **Tokens: Usable for late work and resubmission**

Each of you starts the course with one virtual tokens, which will be tracked on Blackboard. One token may be exchanged for any one of the following:

- One 72-hour extension judicial field research assignment.
- Resubmission of an unsuccessful judicial field research assignment in a timely manner.
- The ability to turn in a basic exam grade improvement assignment, if offered. (I will *not* offer one for the last exam, but *may* for exams 1 and 2.)
- Credit for a small assignment. (I reserve the right to exempt small assignments where your submission is important for group work or discussion in class.)
- With advance permission only, you can use a token for a makeup basic exam.

You cannot use tokens on credit: you cannot spend a token you do not have at the time, in hopes of earning a token later in the class.

There is no limit to the number of tokens you can earn in this course.

Any remaining tokens have no value at the end of the semester.

### **Using tokens**

To use a token, you must send me an email stating that you are using a token and what specifically you are using it for. Be specific, for example, the Packer assignment or the judicial strategy assignment. You do not need to provide any reason or excuse. Please note the class number and “token use” in the subject of the email.

### **Earning tokens**

*Two* additional tokens can be earned for attending and reflecting on the Common Read. *One* additional token can be earned by attending a course related, broadly defined, campus or community event and writing a reflection on it. I may point some out, but you are free to ask about any event.

### **Guidelines for Event Reflections**

Reflections must be submitted within a week of the event in the Blackboard dropbox titled “Token Reflection Submission” using the available template, a Word file. *No exceptions.*

The template includes: your name, the title of talk or event; name, title and affiliation of all speakers; and the location, time, and date of the event.

You should reflect on the event in a 200-250 word essay. This can be part summary, what was the key point or points? You should also include some analysis. What was most interesting, or more influential. What was the

strongest or weakest point? Can you connect this event to something you have learned in this course or another political science course? Exactly what you analyze is up to you, but it is critical that it is done.

### **RULES AND NOTES**

1. Come to class and come to class prepared. Your presence and participation are important to your success.
2. Keep up with the class using communication tools as appropriate.
3. Be considerate of others. Each person in this classroom is valued. Everyone has the right to determine your own identity, to select the name you wish, pronounced correctly. If you find that instruction or the classroom environment is creating a barrier to inclusion for you, please contact me. I will do my best to help.
4. Please put away your cell phone unless asked to use it for class.
5. Make your work your own. Dishonest work will be punished to the full extent that the Student Handbook allows.
6. Technology fails sometimes. Servers go down, files corrupt. Start early and backup your work. You are responsible for getting work in on time and for sending me readable files in the manner required.
7. I only check my Oneonta email, not my Blackboard email. Include a subject in emails to me.
8. Please discuss your disability accommodations with me early in the semester. And use them where appropriate!

### **STUDENT WELL BEING**

The well-being of students is centrally important. If you are facing any challenges related to your mental or physical health or obstacles related to food or housing security, there are caring people on campus who are there to help. Please don't hesitate to contact me to assist you in finding that help and insuring that you are in the best possible position to succeed. Come by the office; send me a text or an email.

### **INTERESTED IN MAJORING OR MINORING IN POLITICAL SCIENCE, INTERNATIONAL STUDIES OR INTERNATIONAL DEVELOPMENT STUDIES?**

Come see me or go by the Department office. We would love to have you.

We also have excellent student run clubs in political science and pre-law. See Campus Connection for details.

### **CATALOG DESCRIPTION**

A study of the U.S. Constitution and its changing interpretations. Covers the development of Constitutional law, important Supreme Court decisions that have affected the law, and the Constitution today.

### **EMERGENCY EVACUATION/SHELTER-IN-PLACE PROCEDURES**

In the event of an emergency evacuation (i.e., fire or other emergency), classes meeting in this building are directed to reassemble at the lobby of IRC so that all persons can be accounted for. Complete details of the College's emergency evacuation, shelter-in-place and other emergency procedures can be found at <http://www.oneonta.edu/security/>.

### **COLLEGE ADA (AMERICAN WITH DISABILITIES ACT) STATEMENT**

Accessibility Resources (formerly Student Disability Services) is committed to creating an accessible educational experience for students with disabilities.

We partner with students, faculty, and other college resources to design accessible environments and to coordinate accommodations for entitled students under federal legislation. In doing so we affirm the worth of each individual and the spirit of diversity inherent in an inclusive college.

We encourage self-advocacy for students and will assist faculty in meeting the needs of all SUNY Oneonta students. For more information go to <https://www.oneonta.edu/accessibility-resources>.

## **TAKE HOME ESSAY**

There will be a take home final essay due on at the time of the final exam period: Thursday, 12/12 at 2:00 p.m. You will choose one of the three questions listed below. Late papers will only be accepted with prior arrangement.

### **The assignment**

Answer one of the questions listed below in approximately 750-900 words. No breezy introduction is needed, dig in and answer the question. Answers may be a bit longer if needed. If your essay is short of 700 words you likely have not answered the question thoroughly enough. Essay answers should be well explained; make sure that you answer all portions of the question asked. You will be graded on whether you take a clear position, explain your position, answer the entire question, write clearly, and on whether you use a range of class materials.

In grading exam essays over the years two basic mistakes stand out. First, students simply describe; no question listed below asks for this, rather you should use course materials to support your position or argument. Second, you must explain statements that you make; often the difference between a fair to good essay and an excellent essay is a few sentences of explanation interspersed through the answer that shows a clear grasp of the concepts and ideas used. In addition, good writing will count: edit and proofread.

1. Is our legal system just and fair? Does it serve all people well? Examine these questions taking into account a range of materials we have covered this semester.
2. We have discussed lawyers as gatekeepers in the legal system this semester. Using readings—both the text and other readings—film, class discussion and your research project, explain how lawyers serve as gatekeepers. Do they perform this job well?
3. It has been argued that “the law on the books” differs from “the law in action.” Agree? Explain using a range of course materials that we have used this semester.

### **Turning in the essay in**

Read these instructions carefully. Your essay must be word processed with one-inch margins on all four sides and single-spaced. Pages must be numbered. Your name must be on the top right. Use a 12-point font. You will submit your essay for grading through a Blackboard drop box titled “Take Home Final Essay.” It must be in Microsoft Word or PDF format.

Note: You are responsible for turning the essay on time or communicating to me about any emergency. I will not hunt down students who do not turn in essays and students will not earn credit if a paper is not submitted in a timely manner.