

Political Science 4930/5171

Law, Policy, Society

Spring 2016

McGannon Hall, Room 211
Wednesday 7:00 - 9:30

Instructor Information

Morgan L.W. Hazelton, J.D., Ph.D.

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Office Hours: Monday & Wednesday, 2:00 to 3:00; Friday 9:00 to 10:00;
or, by appointment.

Course Description

When, how, and why do judges make policy? To what extent do different groups affect change through the courts? Does public opinion influence judges? How do legislation and other policy influence who sues and wins? To what extent does the legal system enforce or disrupt inequalities in society? In this course, we will consider these questions and more as part of our inquiry into the relationships among law, policy, and society. While some other courses explore the development of the law and the choices judges make, this course specifically is focused on how courts interact with society at large. This course meets the Social Science core curriculum requirement for the College of Arts & Sciences.

Course Objectives

This course is designed to help students broaden their knowledge, skills, and values so that they will be able to:

- use conceptual tools and methodologies to analyze and understand their social world in the context of law and policy.
- think and write critically about human behavior and community in the context of the interactions among law, policy, and society.
- understand various methodological approaches used by social scientists to study law, policy, and society.
- act in their world more effectively and become forces for positive change.
- understand human diversity and its impact on law, policy, and society.
- understand the relationships among law, policy, and society.
- critique and assess scholarly theories and evidence.
- discuss and defend ideas orally.
- engage in meaningful and productive dialogue with others.

Additionally, students taking this course for graduate credit will also be able to:

- evaluate, critique, and synthesize competing theoretical explanations in law, policy, and society and produce a comprehensive review of the scholarly literature.
- construct and present arguments and evidence clearly in written work, including essay exam answers and original research.
- produce original research that investigates legal and policy processes pertaining to the United States in a methodologically-sound and persuasive manner and contribute to ongoing scholarly debates.
- analyze the values that inform the connections among law, policy, and society.
- present the results of their research in public forums.

Requirements and Evaluation

Class Participation

Class participation is an essential part of this class, and, thus, your attendance is very important. If you must miss class for a legitimate reason, such as illness, family emergency, or University-sponsored activity, you should contact me as soon as possible (which means before the missed class whenever possible). If you have more than one unexcused absences,

your class participation grade, which is **worth 10% of your final grade**, will be lowered by 5% for each additional day. For example, if you have three total unexcused absences, your class participation grade will be no more than 0% (of the total 10%) and your overall grade in the class can be no more than 90%.

Additionally, students will be assigned days where they will lead discussion regarding the materials and concepts. These students will be provided with the discussion points from the other students to assist them in guiding our analysis of the readings. On-call days will collectively be **worth 10% of your final grade**.

Classroom discussion is an essential part of the learning process during which we deepen our understanding of the material, draw conceptual connections, and apply theoretical and legal frameworks to new scenarios. You are expected to be prepared to discuss the assigned materials every class. Students will be graded on their participation based on well reasoned answers, taking part in conversations, thoughtfulness in comments, and active listening. Disagreement and debate is a part of healthy intellectual discourse, and is strongly encouraged. Students must, however, remain civil with and respectful to all members of the class at all times.

Assignments

All assignment should be typeset in 12-point Times New Roman font with 1-inch margins. They are due in hard copy form.

Students will be penalized 10% per day on late assignments. For an example, an assignment that would normally receive a 91% would be recorded as 71% if the student turned it in two days late. The one exception to this rule is the peer review assignment. Students may not be able to participate in peer review if they turn in their rough drafts late due to the nature of the assignment (see below).

Students will be graded on the assignments in keeping with expectations for student work at the level at which the student registered for the course (undergraduate or graduate).

Discussion Points

In order to focus your reading of the material and enhance classroom discussion, for each class you will produce 6-8 discussion points. These discussion points are due 48 hours before class (Monday at 7:00) and should be submitted to me via email (hazeltonml@slu.edu). These items should include questions, comments, and challenges regarding the readings that you believe would be beneficial to discuss as a class. Please identify the reading to which each item pertains. I will provide the discussion points to the students who are on-call for that class.

Paper

There is one major research assignment for this class which will culminate in a final paper. For undergraduate students, this final paper will be a research design (i.e. a plan for how you could carry out original empirical research in the future). For graduate students, the final paper will be a piece of completed original empirical research. This project will be worth 35% of your overall grade. This is not a book review or a summary of a specific research area. This is not something you will throw together at the last second. Your project should explore a topic in regarding law, policy, and society that interests you. The specific topic of the paper will be of your choosing with my approval.

To help you produce the highest quality work, various assignments pertaining to the project will be due throughout the semester, including the research question and annotated bibliography, literature review, research design, rough draft, presentation, and final draft.

Research Question and Bibliography: You will prepare a single, well crafted research question, and an annotated bibliography with articles or books that you will use in your research. You will meet with me to discuss your research topic during the week of January 27th.

Undergraduate students should include a minimum of 10 sources over at least 5 pages (single spaced).

Graduate students should include a minimum of 15 sources over at least 7 pages (single spaced).

Due Feb. 3rd – 5% of your final grade.

Literature Review: A 5 page (double spaced) review of previous scholarly work in your research area. The literature review should not be a sequential discussion of each source that reads like an annotated bibliography. Rather, it should be an integrated piece of writing that shows how the various sources come together to provide explanations for your phenomenon of interest, along with evidence for, critiques of, and challenges to the theories. You will need to produce the review of the relevant literature in a relatively short amount of space. Thus, it is essential that you synthesis the sources to provide a sophisticated and succinct discussion of the relevant works and concepts.

Due Feb. 17th – 5% of your final grade.

Research Design: A 5-7 page (double spaced) plan for your analysis that begins with an outline of your theory, hypotheses, and methods for testing your hypotheses. Be sure to discuss the type of data you will need to conduct your analyses.

For undergraduate students, discuss how you would obtain your data if you were going to carry out the research design. This will include plans of how you would collect data yourself if there no existing sources for the data. Include citations and web addresses for any existing data sources that you plan to use.

For graduate students, discuss how you will obtain your data. This will include plans of how

you will collect data yourself if there no existing sources for the data. Include citations and web addresses for any existing data sources that you plan to use.

Due Mar. 16th – 5% of your final grade.

Rough Draft: You will turn in a rough draft of your paper for peer review. Each draft will be reviewed by me and another student in the course at the same level as you (undergraduate or graduate) whenever possible. I will assign the peer reviewers. If you do not turn in a rough draft on time, it may affect other students as you will be reviewing another student's work and vice versa. Thus, students turning in late papers may not be able to participate in the peer review process and, if so, will forfeit the points for reviewing another student's paper (5%).

Due Apr. 13th.

Final Draft:

For undergraduate students: a complete and polished research design that includes an introduction, literature review, theory section, data and methods plan, and a conclusion.

For graduate students: a complete and polished research paper that includes an introduction, literature review, theory section, data and methods section, analysis and results, and a conclusion.

Due Apr. 27th – 20% of your final grade.

Peer Review

You will receive a classmate's rough draft to review on April 13th. You will review the paper and provide a 2-6 page (double spaced) report with feedback for the author. The purpose of this feedback is to help the author improve his or her paper. It is important that you give well-thought out criticisms and suggestions. While these comments should include an assessment of the strengths of the paper, feedback is only helpful if it also includes criticisms of and challenges to the project. Additionally, whenever possible, you should provide suggestions on how to address deficiencies in the paper.

April 20th – 5% of your final grade.

Presentation

A 7 minute presentation providing an introduction and highlights of your project with visual aids followed by a question and answer period.

Apr. 27th – 5% of your final grade.

Examination

The final exam in this class will be a comprehensive exam style question that will ask the student to bring materials read in this course together to provide a cogent response to an important question regarding Law, Policy, and Society. In answering the questions, students will need to integrate the relevant materials in providing an response that demonstrates knowledge of the readings and understanding of the concepts from the course. Answers that cover only a few readings or are only a few pages long are very unlikely to provide a comprehensive responses and receive a high grade. I will provide examples of comprehensive exam style questions and tips for answering such questions in class on March 2nd. Additionally, examples from various institutions are available online.

May 4th – 25% of your final grade.

Course Evaluations

Students are required to fill out a course evaluation at the end of the course. Students will receive 1% of extra credit for filling out course evaluations at the end of the course.

Grading

Your grade for this course will consist of the following components and relative weights:

| Type | Item | Grade Value |
|--------------------|--|--------------------|
| <i>Verbal</i> | Class Participation | 10% |
| | On-call Days | 10% |
| | Paper Presentation | 5% |
| <i>Written</i> | Discussion Points | 10% |
| | Research Question/Annotated Bibliography | 5% |
| | Literature Review | 5% |
| | Research Design | 5% |
| | Final Paper | 20% |
| | Peer Review | 5% |
| <i>Examination</i> | Final Exam | 25% |

Grades will be assigned by the following scale:

| Percent of Pts | Letter Grade |
|---------------------------|-------------------------|
| ≥ 93 | A |
| ≥ 90 | A- |
| ≥ 87 | B+ |
| ≥ 83 | B |
| ≥ 80 | B- |
| ≥ 77 | C+ |
| ≥ 73 | C |
| ≥ 70 | C- |
| ≥ 67 | D |
| < 60 | F |

The above scale represents the highest requirements for a particular letter grade. That is, I may, at my discretion, alter the grading scale to require fewer percentage points to obtain a particular letter grade. If you are taking the course on a pass/fail basis, please see me to discuss the requirements for a passing grade. Students auditing the course are expected to attend class and participate in our discussions. I will only agree to requests for extensions after extensive consultation with a student and only in the most exceptional of circumstances.

Important Matters

Academic Integrity and Honesty

Academic integrity is honest, truthful and responsible conduct in all academic endeavors. The mission of Saint Louis University is “the pursuit of truth for the greater glory of God and for the service of humanity.” Accordingly, all acts of falsehood demean and compromise the corporate endeavors of teaching, research, health care, and community service via which SLU embodies its mission. The University strives to prepare students for lives of personal and professional integrity, and therefore regards all breaches of academic integrity as matters of serious concern.

The governing University-level Academic Integrity Policy was adopted in Spring 2015, and can be accessed on the Provost’s Office website at: http://www.slu.edu/Documents/provost/academic_affairs/University-wide%20Academic%20Integrity%20Policy%20FINAL%20206-26-15.pdf.

Additionally, each SLU College, School, and Center has adopted its own academic integrity policies, available on their respective websites. All SLU students are expected to know and abide by these policies, which detail definitions of violations, processes for reporting violations, sanctions, and appeals. Please direct questions about any facet of academic

integrity to your faculty, the chair of the department of your academic program, or the Dean/Director of the College, School or Center in which your program is housed.

Title IX

Saint Louis University and its faculty are committed to supporting our students and seeking an environment that is free of bias, discrimination, and harassment. If you have encountered any form of sexual misconduct (e.g. sexual assault, sexual harassment, stalking, domestic or dating violence), we encourage you to report this to the University. If you speak with a faculty member about an incident of misconduct, that faculty member must notify SLU's Title IX coordinator, Anna R. Kratky (DuBourg Hall, room 36; akratky@slu.edu; 314-977-3886) and share the basic fact of your experience with her. The Title IX coordinator will then be available to assist you in understanding all of your options and in connecting you with all possible resources on and off campus.

If you wish to speak with a confidential source, you may contact the counselors at the University Counseling Center at 314-977-TALK. To view SLU's sexual misconduct policy and for resources, please visit the following web address: <http://www.slu.edu/general-counsel-home/office-of-institutional-equity-and-diversity/sexual-misconduct-policywww.slu.edu/here4you>.

Student Success Center

In recognition that people learn in a variety of ways and that learning is influenced by multiple factors (e.g., prior experience, study skills, learning disability), resources to support student success are available on campus. The Student Success Center, a one-stop shop, which assists students with academic and career related services, is located in the Busch Student Center (Suite, 331) and the School of Nursing (Suite, 114). Students who think they might benefit from these resources can find out more about:

- Course-level support (e.g., faculty member, departmental resources, etc.) by asking your course instructor.
- University-level support (e.g., tutoring services, university writing services, disability services, academic coaching, career services, and/or facets of curriculum planning) by visiting the Student Success Center or by going to www.slu.edu/success.

Disability Services Academic Accommodations

Students with a documented disability who wish to request academic accommodations are encouraged to contact Disability Services to discuss accommodation requests and eligibility requirements. Please contact Disability Services, located within the Student Success Center, at Disability_services@slu.edu or 977-3484 to schedule an appointment. Confidentiality will

be observed in all inquiries. Once approved, information about academic accommodations will be shared with course instructors via email from Disability Services and viewed within Banner via the instructor's course roster.

Writing Center

I encourage you to take advantage of the writing services in the Student Success Center; getting feedback benefits writers at all skill levels. Trained writing consultants can help with any kind of writing project, multimedia project, and/or oral presentation. They offer one-on-one consultations that address everything from brainstorming and developing ideas to crafting strong sentences and documenting sources. For more information, call 977-3484 or visit <http://www.slu.edu/writingservices.xml>.

Course Schedule

What follows is a *tentative* outline of the topics to be covered and when we will cover them. I may modify this schedule as necessary based on the dynamics of this particular class. If the schedule is modified, I will provide you with appropriate notice. I will provide excerpted readings to you via Blackboard or the SLU Library system.

Jan. 13 **Introduction**

Syllabus & Handouts

The Connections Between Society and Policy

Jan. 20 **Interests & Interest Groups**

Mancur Olson. 1971. *The Logic of Collective Action*. Harvard University Press. Ch. 1.

Elmer E. Schattschneider. 1975. *The Semisovereign People: A Realist's View of Democracy in America, Revised Edition*. Wadsworth Publishing. Excerpt.

Joshua L. Kalla and David E. Broockman. 2015. "Campaign Contributions Facilitate Access to Congressional Officials: A Randomized Field Experiment." *American Journal of Political Science*.

Sign-up for Topic Meetings

Jan. 27 **Policy Impact**

Jeffrey L. Pressman & Aaron Wildavsky. 1984. *Implementation, Third Edition*. University of California Press. Excerpt.

Charles Tiebout. 1956. "A Pure Theory of Local Expenditures." *Journal of Political Economy* 64(5): 416-424.

Matt McCubbins and Thomas Schwartz. 1984. "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms." *American Journal of Political Science* 28(1): 165-179.

The Connections Between Law and Policy

Feb. 3 **Judicial Decisionmaking**

Robert A. Dahl. 1957. "Decision-making in a Democracy: The Supreme Court as a National Policy-maker." *Journal of Public Law* 6: 279.

Jeb Barnes. 2013. "U.S. District Courts, Litigation, and the Policy-Making Process." In Jeb Barnes (Ed.). *Judicial Policymaking*. Cognella.

David S. Law, 2009. "A Theory of Judicial Power and Judicial Review." *Georgetown Law Journal* 97: 723. Excerpt.

Douglass C. North and Barry R. Weingast. 1989. "Constitutions and Commitment: the Evolution of Institutions Governing Public Choice in Seventeenth-Century England." *The Journal of Economic History* 49(4): 803-832.

Feb. 10 **Judicial Decisionmaking**

Larry Baum. 2011. "Law and Policy: More and Less a Dichotomy." In Charles Gardner Geyh (Ed.). *What's Law Got To Do With It*. Stanford University Press.

Jeffrey A. Segal and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. Cambridge University Press. Excerpt.

Lee Epstein and Jack Knight. 1998. *The Choices Justices Make*. Congressional Quarterly, Inc. Excerpt.

Brian Tamanaha. 2011. "The Several Meanings of Politics in Judicial Politics Studies: Why Ideological Influence is not Partisanship." *Emory Law Journal* 61(4): 759-778.

Feb. 17 **Judicial Decisionmaking**

Charles R. Epp. 1998. *The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective*. University of Chicago Press.

Feb. 24 **Policy and Outcomes**

Charles R. Epp. 2010. *Making Rights Real: Activists, Bureaucrats, and the Creation of the Legalistic State*. University Of Chicago Press.

Mar. 2 **Policy and Outcomes**

Jeb Barnes and Thomas Burke. 2015. *How Policy Shapes Politics: Rights, Courts, Litigation, and the Struggle Over Injury Compensation*. Oxford University Press.

Comprehensive Exam Examples

Mar. 9 **Spring Break**

The Connections Between Law and Society

Mar. 16 **Interest Groups and the Courts**

Gregory A. Caldeira and John R. Wright. 1990. "Amici Curiae before the Supreme Court: Who Participates, When, and How Much?" *Journal of Politics* 52(3): 782-806.

Lee Epstein and C.K. Rowland. 1991. "Debunking the Myth of Interest Group Invincibility in the Courts." *American Political Science Review* 85(1): 205-217.

Paul M. Collins, Jr. 2007. "Lobbyists Before the U.S. Supreme Court: Investigating the Influence of Amicus Curiae Briefs." *Political Research Quarterly* 60(1): 55-70.

Thomas G. Hansford. 2004. "Information Provision, Organizational Constraints, and the Decision to Submit an Amicus Curiae Brief in a U.S. Supreme Court Case." *Political Research Quarterly* 57(2): 219-230.

Mar. 23 **Public Opinion and the Courts**

Helmut Norpoth, Jeffrey A. Segal, William Mishler, and Reginald S. Sheehan. 1994. "Controversy: Popular Influence on Supreme Court Decisions." *American Political Science Review* 88(3): 711-724.

Kevin McGuire and James A. Stimson. 2008. "The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiveness to Public Preferences." *Journal of Politics* 66(4): 1018-1035.

Michael W. Giles, Bethany Blackstone, and Richard L. Vining, Jr. 2008. "The Supreme Court in American Democracy: Unraveling the Linkages between Public Opinion and Judicial Decision Making." *Journal of Politics* 70(2): 293-306.

Charles H. Franklin and Liane C. Kosaki. 1989. "Republican Schoolmaster: The U.S. Supreme Court, Public Opinion, and Abortion." *American Political Science Review* 83(3): 751-71.

Mar. 30 **Judicial Selection and the Courts**

Jed H. Shugerman. 2010. "Economic Crisis and the Rise of Judicial Elections and Judicial Review." *Harvard Law Review* 123(5): 1061-1150. Excerpt.

Melinda Gann Hall. 2001. "State Supreme Courts in American Democracy: Probing the Myths of Judicial Reform." *American Political Science Review* 95(2): 315-330.

James L. Gibson. 2008. "Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and 'New-Style' Judicial Campaigns." *American Political Science Review* 102(1): 59-75.

Christine L. Nemacheck. 2012. "Selecting Justice: Strategy and Uncertainty in Choosing Supreme Court Nominees." In Kevin T. McGuire (Ed.). *New Directions in Judicial Politics*. Routledge.

Apr. 6 **Atlas Week**

Apr. 13 **Legitimacy and Support**

Gregory A. Caldeira and James L. Gibson. 1992. "The Etiology of Public Support for the Supreme Court." *American Journal of Political Science* 36(August): 635-664.

Jeffrey J. Mondak. 1993. "Institutional Legitimacy and Procedural Justice: Reexamining the Question of Causality." *Law and Society Review* 27: 599-608.

Tom R. Tyler. 2006. *Why People Obey the Law*. Princeton University Press.

Apr. 20 **Implementation and Impact**

Bradley C. Canon and Charles A. Johnson. 1999. *Judicial Policies: Implementation and Impact*. CQ Press. Excerpt

Gerald N. Rosenberg. 2008. *The Hollow Hope*. University of Chicago Press. Excerpt.

Matthew E.K. Hall. 2011. *The Nature of Supreme Court Power*. Cambridge University Press. Excerpt.

Apr. 27 **Presentations**

Research Presentations

May 4 **Finals**

Final Exam, 6:30 - 8:30
