

The Politics of Judicial Decision Making
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T 2-4:30
Silver 404

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Office Hours: Thursday, 2:30-4:30

This seminar provides an introduction to current research on Supreme Court decision making. Specifically, the primary focus of the seminar is on why the Justices decide cases in the way that they do. However, we will also look at the Justices' decisions on writs of certiorari, and at the process by which the Justices are nominated and confirmed to the Court.

To understand the Justices' decision making, we will look both at the secondary literature on the Court and at different kinds of primary evidence, for example: Supreme Court opinions, the Justices' estimated preferences, the ideological direction of the Court's judgments, the character of the laws that come before the Court, and the preferences of members of Congress and the President. A primary goal of the seminar is to frequently engage you with these primary materials to try to make sense of the Court's decisions.

Seminar requirements include one group project, two individual projects, and a final research paper. The projects and paper will be discussed in class.

Grading: Grading will be based on the above, plus seminar participation.

Books/Packet:

The following books are available for purchase at the NYU Bookstore:

Jeffrey A. Segal, *The Supreme Court and the Attitudinal Model Revisited (SCAMR)* (Cambridge 2002)

Lawrence Baum, *The Supreme Court*, Ninth Edition (CQ Press, 2006)

Lee Epstein and Jeffrey A. Segal, *Advice and Consent: The Politics of Judicial Appointments* (Oxford 2007) [Available Feb 2007]

In addition, a packet containing the remaining course readings is available for purchase at New University Copy on Waverly St., near Mercer.

Week 1: Introduction

January 16

January 18

SCAMR, Chapter 1, pp. 223-244

The Supreme Court, Chapter 1, pp. 106-114

Week 2: The Commerce Clause

January 23 Mock Trial: *United States v. Lopez*

January 25

United States v. Lopez (1995)

Week 3: The 14th Amendment, Section 5

January 30 Mock Trial: *City of Boerne v. Flores*

February 1

City of Boerne v. Flores (1997)

Week 4: The 11th Amendment

February 6 Mock Trial: *Seminole Tribe of Florida v. Florida*

February 8

Seminole Tribe of Florida v. Florida (1996)

Week 5: Explaining Judicial Decisionmaking: The Legal Model

February 13

February 15

SCAMR, Chaps 2, 7

The Supreme Court, pp. 114-120

Week 6: Explaining Judicial Decisionmaking: The Policymaking Model

February 20

February 22

SCAMR, pp. 86-97, Chapter 4, pp. 312-326
The Supreme Court, pp. 120-132

Week 7: Testing the Policymaking Model: The Dependent Variable

February 27

March 1 **Project # 1: Judgment Codes and Constitutional Cases**

Anna Harvey, "What Makes a Judgment 'Liberal'? Measurement Error in the United States Supreme Court Judicial Database," Working Paper, November 2006.

Week 8: Testing the Policymaking Model: The Independent Variable

March 6

March 8

Andrew Martin et al, "The Median Justice on the United States Supreme Court," *North Carolina Law Review* 83 (2005)

SPRING BREAK

March 13

March 15

Week 9: Opinion Assignment and the Opinion Author

March 20 **PROJECT #1 DUE**

March 22

SCAMR, Chapter 9
The Supreme Court, pp. 132-142

Week 10: The Court and Separated Institutions, Sharing Powers (SOP)

March 27

March 29 **Project # 2: SOP Models and Constitutional Cases**

SCAMR, pp. 97-114, 326-356, Chapters 10-11
The Supreme Court, pp. 142-155, 163-181, 187-226

Week 11: Testing SOP Models

April 3

April 5

Anna Harvey and Barry Friedman, "Pulling Punches: Congressional Constraints on the Supreme Court's Constitutional Rulings, 1987-2000," *Legislative Studies Quarterly* 31: 4 (November 2006)

Week 12: Certiorari

April 10 **PROJECT #2 DUE**

April 12

SCAMR, pp. 244-278

The Supreme Court, Chapter 3, pp. 156-163

Week 13: The Appointments Process

April 17

April 19

SCAMR, Chapter 5

The Supreme Court, Chapter 2, pp. 181-184

Advice and Consent, Chapters 1-3

Week 14: Wrapping Up

April 24

April 26

Advice and Consent, Chapters 4-6

Final Paper Due: Tuesday, May 8, 10 AM