As every student of American government and policy understands, the Framers of the U.S. Constitution created three separate and distinct branches of government: the Executive, the Legislative, and the Judicial. The goal of this class is to investigate the means by which the president and the legislators create law and public policy, and then focus on how courts both enable—and limit—the elected branches’ policymaking choices. We will study the U.S. Constitution and read and analyze a series of judicial opinions and case studies in order to understand the full extent of judicial power. As we will see, judges have addressed and shaped major policy issues throughout history, including voting rights, campaign finance, segregation, marriage, drugs, property rights, taxes, and guns.

By investigating judges and courts, the class will highlight an important (though often hidden) field of public policymaking in the judicial context. For this reason, the course is ideal for undergraduate students interested in law and public policy generally, but also for those students considering Law School.

The objectives of our class include the following: 1) identifying the division of policymaking powers across the three branches of government, 2) understanding the specific nature of courts’ policymaking powers, 3) reading and analyzing judicial opinions, and 4) objectively presenting and discussing controversial law and public policy topics.

**COURSE REQUIREMENTS AND GRADING**

1. Class Participation—20%

2. Short Assignments—40%  
   Due January 31  
   Due: March 10  
   Due March 28-April 25  
   Please submit assignments via blackboard
   Summary of Judge Posner’s 9 Theories  
   Report on California’s recreational marijuana law  
   Three case briefs (please submit brief via blackboard prior to class discussion)

3. Midterm Examination—20%

4. Final Examination—20%
READING & ASSIGNMENTS

The reading assignments are presented on pages 3-5 below. All of the readings other than the Constitution and judicial opinions (cases) are available in a course reader at the bookstore. I have not included the Constitution and cases in the course reader in an effort to reduce costs. These materials can be found for free online from a variety of sources including the National Archives (the Constitution: https://www.archives.gov/founding-docs/constitution), Cornell’s Legal Information Institute (https://www.law.cornell.edu), and Google Scholar (https://scholar.google.com). Please make sure when you start reading a case that the citation is the same as given below, because a court case often has several decisions with the same name and different citations. Also, when a case is assigned to read, the assigned reading includes all concurring and dissenting opinions.

A FEW TECHNICAL ISSUES

1. Due Dates. Assignments are due on the dates marked *** below.

2. Disability accommodations. Any student requesting academic accommodation based on a disability must register with Disability Services and Programs (DSP). A letter of verification for approval of accommodations can be obtained from DSP. Please be sure the letter is delivered to me as early in the semester as possible. DSP is located in STU 301 and is open 8:30 a.m. to 5:00 p.m., Monday through Friday. The phone number for DSP is (213) 740-0776.

3. Academic Integrity & Plagiarism. Students should maintain strict adherence to standards of academic integrity, as described in the University Student Conduct Code (available at http://scampus.usc.edu/1100-behavior-violating-university-standards-and-appropriate-sanctions/). Please note that the paragraph 11.11 of the code lists the following as an example of a code violation:

   A. The submission of material authored by another person but represented as the student's own work, whether that material is paraphrased or copied in verbatim or near-verbatim form.
   B. The submission of material subjected to editorial revision by another person that results in substantive changes in content or major alteration of writing style.
   C. Improper acknowledgment of sources in essays or papers.

Note: Culpability is not diminished when plagiarism occurs in drafts that are not the final version. If any material is prepared or submitted by another person on the student's behalf, the student is expected to proofread the results and is responsible for all particulars.
OUTLINE AND READINGS

WEEK 1—INTRODUCTION

January 10:  *The Constitution of the United States* including all 27 amendments  
(https://www.archives.gov/founding-docs/constitution or https://www.law.cornell.edu/constitution/overview)  

WEEK 2—THE POLICYMAKING PLAYERS: POLITICAL PARTIES AND ELECTED BRANCHES


WEEK 3-- THE POLICYMAKING PLAYERS: ACTIVISTS


WEEK 4-- THE POLICYMAKING PLAYERS: JUDGES


***Submit a summary of Posner’s Nine Theories***

WEEK 5—UNDERSTANDING AMERICAN COURTS

*Marbury v. Madison*, 5 U.S. 137 (1803)

WEEK 6—READING JUDICIAL OPINIONS

**WEEK 7—MIDTERM**

February 21

**WEEK 8—THE RIGHT TO POSSESS GUNS**


Amanda Carey, *Chicago City Council passes new gun ordinance on handgun possession proposed by Mayor Daley* (The Daily Caller, July 2, 2010)

**WEEK 9—THE RIGHT TO MARRY**


***Submit 4 page report on California’s recreational marijuana law via Blackboard by Tuesday, March 21***

**WEEK 10: SPRING BREAK**

March 14

**WEEK 11—THE RIGHT TO USE MARIJUANA**


David Ogden, *Memorandum for Selected U.S. Attorneys on Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana* (October 19, 2009)

**WEEK 12—THE RIGHT TO PRIVATE PROPERTY**


Marice Ashe, JD, MPH, David Jernigan, PhD, Randolph Kline, JD, and Rhonda Galaz, JD, *Land Use Planning and the Control of Alcohol, Tobacco, Firearms, and Fast Food Restaurants*, Am J Public Health 93(9), 1404–1408 (September 2003).  
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447982/

**WEEK 13—THE DUTY TO CONTRIBUTE PROPERTY TO THE COMMON GOOD**


WEEK 14—CONGRESS’ POWER TO TAX AND SPEND

Barry Friedman, Obamacare and the Court: Handing Health Policy Back to the People, 91 Foreign Affairs 87-98 (2012)

WEEK 15—THE RIGHT TO VOTE

April 18: Shelby County v. Holder, 570 U.S. ___, 133 S. Ct. 2612, 186 L. Ed. 2d 651 (2013)

WEEK 16—CAMPAIGN FINANCE

Western Tradition Partnership v. Montana, 363 Mont. 220 (2011)

Final Exam: May 9, 7:00-9:00pm