



RPOS 344: PREDICTING SUPREME COURT DECISIONS

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Location: HU 124
Time: TuTh 4:15-5:35
Office Hours (in HU 016):
TuTh: 9:00-10:30
or by appointment

Course Description. This course is about *judicial behavior* in the U.S. Specifically, this course is about understanding and explaining judicial decision-making on the U.S. Supreme Court. Why do the justices of the Supreme Court vote the way they do? Why are cases decided in one direction and not another? And how might answers to these questions help us anticipate how the Court might render decisions in the future? Obtaining answers to these questions is important in order to anticipate changes in the law, changes that can have wide-ranging impact on society. To answer these questions, this course closely examines the decision-making process of the Supreme Court of the United States (SCOTUS; also called USSC or simply SC).

To be clear, this course is not just about simple predictions or guesswork. For instance, in gambling, one might be only interested in whether you guess correct outcome (e.g., roulette). In social science, we are not really interested in guesswork, even if guess is correct. We are more interested in “why” and “how” a particular outcome came about. More generally, social scientists are not in the business of prediction; we are in the business of understanding and explanation, and good explanations can often be used to anticipate or forecast the future. Thus, in this class we are not simply interested in predicting that Judge A will vote one way and Judge B will vote another way. Rather, the goal is to understand and explain this behavior of judges. A natural extension of a strong understanding and explanation of judicial behavior is that we can then better anticipate what judges will do in the future, i.e., we can generate informed predictions of future behavior based on the strength of our understanding, but the core goal is understanding and explanation, not just simple prediction.

To understand judicial behavior in the nation’s highest court, we need to understand existing explanations of this behavior, including explanations that emphasize the role of both (1) internal factors (e.g., the structure of the court, the rules by which it functions, the composition of the court, the individual ideological and social backgrounds of justices); and (2) external factors (e.g., inter-branch relations, economic conditions, interest group and social movement pressure, media pressure, public opinion).

The course is structured as follows. Part I of the course identifies current cases bring heard at the high court, highlighting cases that raise major issues about free speech, criminal procedure, voting rights, death penalty, and other fundamental issues. By the end of this section, you should have a good sense of which case or set of cases you would like to try to understand, explain, and predict. Part II then examines the institutional background of the

high court, examining the history, design, and internal rules of the Supreme Court. Part III of the course introduces dominant explanation of judicial behavior on the bench, i.e., formal propositions or arguments that seek to account for why individual justices vote the way they do, and why the court decides cases the way it does. With background on current cases (Part I), institutional context (Part II), and theories of judicial behavior (Part III), Part IV then takes a more practical, applied approach to judicial behavior, looking at prior efforts to predict SC behavior and various sources of data and information to build our own explanations of judicial decision-making on the Supreme Court. The course culminates with presentations of your prediction(s) on current, undecided cases, including a friendly competition to see who can generate the most correct predictions of cases currently before the Supreme Court (the Court will be issuing decisions throughout the spring, with final decisions on all cases due by the end of June 2017, so I will send prize to winning student(s) after that date).

Principal course requirements consist of regular quizzes, two mid-term exams, a pair of online activities, and a final prediction project that includes both an in-class presentation and a prediction report (you may work individually or in groups).

Pre-requisites. There are no pre-requisites for this course. However, *Introduction to Public Law (RPSO 326)* is strongly recommended. Other recommended courses include *Introduction to American Politics*, *Constitutional Law*, *Civil Liberties*, *Civil Rights*, *Constitutional Interpretation*, and *Comparative Judicial Politics*. If you are currently taking any of these courses alongside this course, you should find several points where the courses complement each other.

Requirements

Readings. The main texts for this course are:

- 1) Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*. Washington, D.C.: CQ Press.
- 2) Segal, Jeffrey A., and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. Cambridge, UK: Cambridge University Press.

Used and new copies of these books are available at various online booksellers. These books will be supplemented periodically with journal articles and other short readings or online material. Please see the class schedule below for a detailed list of the reading assignments. Articles and other short pieces are available via the electronic databases that can be accessed with through Blackboard or the library. Where otherwise unavailable, I will provide these materials for you. We meet two times per week, and you should read and come prepared in advance of each class.

Grading

- Attendance and Participation: 10%
- Quizzes (20%)
 - Scheduled: 10%

- Random: 10%
- Mid-term Exams: 30%
- Online activity: 20%
 - Fantasy SCOTUS
- Prediction Project (20%):
 - Presentation: 10%
 - Report: 10%

Attendance and Participation. Active engagement with the material is critical to your success in class. Generally, you need to encounter the material at least three times in order for you to understand it in any depth. For some people, this may be easy to do independently. However, for most people, the easiest and fastest way to encounter the material three times is to (1) read for class, (2) participate in class discussions, and (3) write notes, outline, or review the material for an exam. Therefore, staying current with the reading, attending class, and participating in class discussion and activities put you in a much better position to work with the material when you take an exam in the course.

Considering the importance of participation and active engagement with the materials, several elements of the course are designed to encourage you to come prepared for each day of class and participate in class discussions and other activities. I generally assume that students start out with 100% of their participation grade, and either do things to consolidate that status or do things to erode and reduce their participation grade. With this in mind, I pay attention to your attendance, participation, and engagement in class. If you are missing class, I will notice and this will affect your participation grade. If you are missing class, you will also likely miss random quizzes (see below). If I return work in class and you are not there to receive it, this will affect your participation grade. Another thing I will do is randomly call on someone to answer a question about the material we are covering for that day or from earlier days. If I call on you and you can demonstrate that you have read and engaged with the material, then you strengthen your participation points. If I call on you and you are not there, or if I call on you and it is clear you are not prepared, I deduct participation points. We will also occasionally break up into smaller groups, and I will note attendance and participation in these sessions.

Separately, **classroom conduct can also affect your participation grade.** See **Classroom Conduct** below.

Quizzes. There are two types of quizzes in this class: scheduled and random. Scheduled quizzes are listed in the course schedule and will be online on Blackboard. Random quizzes can occur at any time and usually consist of two or three short questions, and you get an additional point just for being present for the quiz. If you have done the reading for that day, you should not have any trouble with the random quiz. Even if you have not done the reading, at least turn in a paper with your name on it so that you get the one point for being present. I will collect all random quizzes within the first 10 minutes of class. No late random quizzes will be accepted. Either you are in class in first 10 minutes to take the quiz, or you are not.

Mid-Term Exams. There will be two mid-term exams (see schedule). These exams will be comprehensive, covering all material covered up until that point in the course.

Online Activity. All students must enroll in Fantasy SCOTUS and join the “league” I have set up for our class (“UAlbany-RPOS 344”). Information on how to enroll is provided in class schedule below (Week 1). Several activities will flow from our league in Fantasy SCOTUS, including reviewing case materials and casting votes for how individual justices will decide particular cases. I will track all of this activity online and ask for a printed report of you activity at the end of the semester. Details on the format and content of this report will follow later in the semester.

Prediction Project. The prediction project consists primarily of two components: (1) in-class presentation, and (2) prediction report. In the presentation, you will describe the case or set of cases you have chosen to explain and predict to the rest of the class, identify the theoretical framework you rely on in your explanation and prediction for the case, and provide a detailed account of how the theoretical framework applies to your case(s). The report will simply document all of this in written form, which you will turn in on the day you give your presentation.

To get you started on this project, in Week 2 you will submit a short, 1-page memo (1-inch margins, single-spaced, 12-point Times New Roman font) identifying at least 1 case pending before the Supreme Court that you think you might like to track and examine more closely over the course of the semester. This 1-page memo will be part of your overall grade for the prediction project.

For the prediction project, you can work in groups of no more than 3 people. However, in order to work in groups, all members of the group must agree to receive the same grade. That is, I will evaluate the group project as a whole and assign a single grade. Each member of the group must agree to this. Also, group members will be asked to provide slightly longer presentations and each member of the group must participate in the presentation.

Additional details on the format and structure of the presentation and report will follow later in the course.

Class Policies.

Classroom conduct. You are expected to promote a classroom environment that makes it easy for your peers to engage with the material. In this regard, **please keep distractions to a minimum.** With regards to **technology in the classroom,** please turn your phones and other handheld devices off during class. Texting during class is unacceptable. Laptop use is allowed for taking notes and other activities relevant to class, but sending emails, messaging, checking social media, or watching videos online is unacceptable. If you are texting, on social media sites, watching videos, or otherwise using technology inappropriately in the classroom, **you will be asked to leave for the day.** If you are asked to leave, please do so promptly and without disrupting the class further; if you would like to discuss why you were asked to leave, please contact me by email and we can discuss what happened at a later time. **If this happens a second time, you will receive a zero (0) for**

your participation grade for the semester. If you have extraordinary circumstances that justify keeping your phone on during class (e.g., family or medical urgency), please let me know ahead of time, before class starts that day.

Course website. If you are enrolled in this course, you should be automatically enrolled in the Blackboard site for the course. All readings that are not in the assigned books (see above) will be posted on this site. Also, quizzes may be administered through this site. I expect you to be familiar with this site.

Email. I expect you to check your email. You are responsible for material sent by email.

Late Work and Missed Assignments. Random quizzes and other written work must be turned in at the beginning of class – no exceptions. No late exams will be given. If you have a legitimate reason for missing class (e.g., medical or family emergency), this explanation must be documented. Without a legitimate and documented explanation, late work will be penalized one letter grade for each day it is late, and it is considered late if turned in beyond the time limits above (i.e., after the first 10 minutes of class, or after 5pm on days there is no class unless another deadline is noted; this includes weekends and holidays).

Academic Integrity. All students must familiarize themselves with the *Standards of Academic Integrity* on the University's website and pledge to observe its tenets in all written and oral work, including oral presentations, quizzes and exams, and drafts and final versions of essays. The full standards and examples of dishonest behavior are available at: http://www.albany.edu/undergraduate_bulletin/regulations.html.

The most common violation of academic integrity is plagiarism or cheating.

My advice is simple: don't do it.

Don't even think about doing it.

Plagiarism is the use of someone else's words or ideas without giving the original author credit by citing him or her. If you use someone else's language directly, you must use quotation marks. If you rely on another person's ideas in creating your argument or shaping your research, you must provide a citation that explicitly acknowledges the source of those ideas. In short, don't take credit for other people's words, work, or ideas. If you have any questions about plagiarism, please contact me before you submit the assignment for grading. Plagiarism or cheating will result, at a minimum, in a failing grade for the assignment and the submission of your name to the Office of Conflict Resolution. Ignorance of this policy will not provide a defense to the application of this policy.

Americans with Disabilities Act (ADA). Qualified students with disabilities needing appropriate academic adjustments should contact me as soon as possible to ensure your needs are met in a timely manner.

Counseling and Psychological Services (CAPS). If you are going through a difficult time (e.g., stress, anxiety, depression, relationship issues, traumatic experience), there are resources on campus to help you. The office on campus that houses these resources is Counseling and Psychological Services (CAPS). Services are free during the academic

year, and confidential. Phone: 518-442-5800. Email: consultation@albany.edu. Web: http://www.albany.edu/counseling_center/

Miscellaneous. If you feel you need any help or simply want clarification on any of the material, please do not hesitate to raise your question in class or approach me outside of class. I will hold regular office hours throughout the summer session. If you cannot arrange to come talk with me during these hours, please call or email me, or contact the Department of Political Science administrative offices, so that we can set up an appointment.

Changes to Syllabus. I will modify and update this syllabus throughout the semester. I will announce these updates, and the current version of the syllabus will always be on Blackboard.

Additional Resources:

- (1) Supreme Court Blog: www.scotusblog.com
- (2) Constitutional Law Professors' Blog: <http://lawprofessors.typepad.com/conlaw>
- (3) Empirical Legal Studies (ELS) Blog: www.elsblog.org
- (4) Law & Courts Section of American Political Science Association: <http://www.law.nyu.edu/lawcourts>
- (5) Law & Society Association (LSA): <http://www.lawandsociety.org>
- (6) Comparative Law Society: <http://www.iuscomp.org>
- (7) American Society of International Law: <http://www.asil.org/index.html>
- (8) Globalex legal research site (NYU): <http://www.nyulawglobal.org/Globalex/>
- (9) Jurist legal research site (U. of Pittsburgh): <http://jurist.org/>
- (10) World Treaty Index: <http://worldtreatyindex.com>
- (11) Computational Legal Studies: <http://computationallegalstudies.com>
- (12) Some relevant journals:
 - a. International Journal of Constitutional Law
 - b. Journal of Empirical Legal Studies
 - c. Journal of Law, Economics, and Organization
 - d. Journal of Legal Studies
 - e. Judicature
 - f. Justice System Journal
 - g. Law and Social Inquiry
 - h. Law and Society Review

CLASS SCHEDULE

Introductions

WEEK 1: Jan 24, 26

I. Introductions

Introductions; overview of course

II. To Predict or Not to Predict? (Jan 26)

- **Reading**
 - Shmueli (2010)

PART I: Getting to Know the Cases

WEEK 2: Jan 31, Feb 2

- **Reading**
 - Review summaries of all current cases on these three websites:
 - OYEZ
 - <https://www.oyez.org/cases/2016>
 - this site has a clean interface and accessible presentation of facts and legal questions raised in each case
 - note that can sort cases various ways
 - SCOTUS Blog, Merit Cases for October Term 2016
 - <http://www.scotusblog.com/case-files/terms/ot2016/>
 - Note that can sort cases by date or name
 - Fantasy SCOTUS
 - <https://fantasyscotus.lexpredict.com/>
 - Additional resources
 - ABA Preview
 - http://www.americanbar.org/publications/preview_home.html
 - Look at highlighted articles from current term
 - ABA and Woodrow Wilson Center: “On the Docket”
 - http://www.americanbar.org/publications/preview_home/on-the-docket.html
 - This is a 90-minute webcast that preview current docket with brief summaries of prominent cases
 - Note:
 - To skip initial introductions, jump to: minute 8
 - To skip initial introductions and brief summary of previous term (OT 2015), skip to: minute 18:40
 - Discussion of OT 2016 is organized into four themes (fair housing,
 - Legal Information Institute (LII), Cornell University Law School, LII Bulletin Previews:

- https://www.law.cornell.edu/supct/oral_arg_previews.php?begin=20161001
 - AMICUS podcast
 - <http://www.slate.com/articles/podcasts/amicus.html>
 - **DO**
 - At home:
 - Enroll in [Fantasy Scotus](#) and join class league “UAlbany-RPOS344”
 - If link does not work, copy and paste this url in your browser: <https://fantasyscotus.lexpredict.com/>
 - Browse website and become familiar with how to use site, including how to find cases, review materials for each case, and how to case your own predictions
 - Enroll in [PredictIt](#)
 - If link does not work, copy and paste this url in your browser: <https://www.predictit.org>
 - NOTE 1: on second screen during sign up process, you might be prompted to provide personal information; you are not required to enter this information and can click “SKIP” towards bottom of page
 - NOTE 2: there is a lot of “trading” taking place on the PredictIt site, and you need to deposit money to engage in these activities; I do not endorse or recommend this; we are only using PredictIt to track simple, naïve ways of predicting issues related to the Supreme Court (e.g., who will be next SC justice, how individual cases will turn out)

WEEK 3: Feb 7, 9

- Continue Getting to Know the Cases
- DUE on Tuesday: 1-page memo for prediction project (see p.4).

PART II: Getting to Know the Court

WEEK 4: Feb 14, 16

- **Reading**
 - Segal and Spaeth, Ch. 1 (for Tue)
 - Segal and Spaeth, Ch. 4 (for Thur)
 - Review SC website:
 - <https://www.supremecourt.gov/>
 - Review biographies of current justices
 - OYEZ: <https://www.oyez.org/justices>
 - USSC: <https://www.supremecourt.gov/about/biographies.aspx>
 - SCOTUS Blog: <http://www.scotusblog.com/reference/educational-resources/biographies-of-the-justices/>

- Review Court procedure (in plain English)
 - SCOTUS Blog: <http://www.scotusblog.com/reference/educational-resources/supreme-court-procedure/>
- Review Supreme Court Database (SCDB)
 - <http://scdb.wustl.edu/>
- Recommended
 - Segal and Spaeth, Ch. 5: “Staffing the Court”
 - Segal and Spaeth, Ch. 6: “Getting into Court”
 - Greenhouse, Linda, *The U.S. Supreme Court: A Very Short Introduction* (Oxford University Press, 2012)

QUIZ 1 (opens online Thursday after class)

PART III. Approaches to Predicting Supreme Court Decisions

WEEK 5: Feb 21, 23

- **Reading**
 - Symposium on “Forecasting U.S. Supreme Court Decisions” (read these in following order)
 - Epstein 2002
 - Martin et al. 2002
 - Sherry 2002
 - Caldeira 2002
 - Greenhouse 2002
 - Silbey 2002
- Suggested
 - Explore project website:
 - <http://wusct.wustl.edu/index.php>

WEEK 6: Feb 28, Mar 2

- **Reading**
 - Symposium on “Forecasting U.S. Supreme Court Decision” (CONT.)
 - Kastlelec (2010); only pp. 1-12

MID-TERM 1 (opens online Friday morning)

PART III: Getting to Know Dominant Explanations

WEEK 7: Mar 7, 9

- **Reading: Legal Model**
 - Segal and Spaeth, Ch. 2 and Ch. 7
 - Kastlelec (2010); finish article (already read pp. 1-12)

NO CLASS ON MAR 14, 16; SPRING BREAK, MARCH 13-17

WEEK 8: Mar 21, 23

- **Reading: Attitudinal Model**
 - Segal and Spaeth, Ch. 3, pp. 86-97; and Ch. 8, pp. 312-326
 - Sunstein, Cass, David Schkade, and Lisa Ellman. 2004. "Ideological Voting on Federal Courts of Appeal: A Preliminary Investigation." *Virginia Law Review* 90. (first half)

WEEK 9: Mar 28, 30

- **Reading: Strategic or SOP Model**
 - Epstein and Knight, Ch. 1-3
 - Crawford Greenburg, Jan. 2008. "Change of Heart." In Jan Crawford Greenburg. *Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court*. New York: Penguin. Ch. 6 (pp. 139-163)
- Optional recommended reading:
 - Segal and Spaeth, Ch. 3, pp. 97-114; and Ch. 8, pp. 326-349
 - Epstein and Knight, Ch. 4
 - Epstein and Knight, Ch. 5

QUIZ 2

PART IV: Tools for Developing a Prediction Approach

WEEK 10: Apr 4, 6

- **Reading**
 - Data Sources
 - SCOTUSstatpack
 - SCDB at WUSTL
 - Journalistic accounts
 -

WEEK 11: Apr 13

NO CLASS ON APR 11; PASSOVER, APR 10-12

- **Reading**
 - Data sources and tools (cont.)

WEEK 12: Apr 18, 20

- **Reading: Data analysis of SCDB**
 - Review SCDB here: <http://scdb.wustl.edu/>
- DO

- At home:
 - Review analysis tools here: <http://scdb.wustl.edu/analysis.php>
- In class:
 - use analysis tools here: <http://scdb.wustl.edu/analysis.php>
 - use other analysis tools

MID-TERM 2

WEEK 13: Apr 25, 27

- continue use of analysis tools
- begin in-class presentations
 - **NOTE:** final prediction reports will be submitted at the time of your in-class presentation

WEEK 14: May 2, 4

- In-class presentations

PROF. INGRAM POTENTIALLY AT CONFERENCE THIS WEEK

WEEK 15: May 9

LAST DAY OF CLASS IS TUESDAY, MAY 9

- Finish presentations
- Recap semester