

PSC 260/CSS 312—LAW AND THE POLITICAL SYSTEM
Inside-Out Program at Stateville Correctional Center, Spring 2016
Dr. C. Rivers, Instructor

Welcome! This course is about the *nexus*, or intersection of law and politics. It will begin with the basics of federalism, checks and balances, judicial review, and constitutional interpretation. It will then cover constitutional rights of the accused, and the political contexts that have both expanded and restricted these rights. The course will conclude on the political consequences of mass incarceration on prisoners and their home communities, and on alternatives to imprisonment as we know it.

It is easy to think of law and politics as separate realms. However these two realms constantly intersect and are mutually influential. Laws are generally made by elected representatives, interpreted by appointed or elected judges, and administered by bureaucrats. The processes of electing and appointing judges are intensely political, ideological and partisan. While judges operate under the rule of law, they are political beings with distinct ideological and policy preferences—they do not live or make their decisions in apolitical vacuums. This is even more the case with elected judges, as we have in Cook County. All of these intersections are further complicated by race, ethnicity, class, gender, and sexual identity.

In other words, the dynamics between law and politics illustrate the dynamics between political institutions and actor, and us, i.e. “we the people”. How often have we the people demanded that “there should be a law against...” actions that we believe are wrong? How often have we demanded that existing laws we think are unjust, undemocratic, outmoded, immoral, should be repealed? How often do we even know what we’re asking for when we make such claims?

The truth is that we often don’t know what we’re talking about in these moments. Hence this course will focus on the following goals:

- to familiarize us with the U.S. Constitution, particularly civil liberties and civil rights.
- to provide the relationship between branches and levels of government, and how laws affect them
- to illuminate the conflicting processes of interpreting laws
- to explain the tensions between democracy, the will of the people, and the rule of law
- to introduce basic legal concepts, and familiarize us with legal writing styles

Coursework will include formal lecture by the Socratic method, interactive discussions, in-class exercises and reflections, case briefing assignments, and a final group project.

Any course on politics and law will be controversial and full of “uncomfortable truths”. You might find some of the readings and topics upsetting. This course experience depends on honest, thoughtful, and respectful discussion of the materials. Disagreement is healthy and debate is encouraged. Mutual respect is required.

REQUIRED MATERIALS:

- *Discipline and Punish*--Michel Foucault
- *Race to Incarcerate: A Graphic Retelling*—Jones and Mauer
- Additional required readings posted on D2L or handed out by the instructor.

NOTE: Read this syllabus CAREFULLY and THOROUGHLY NOW, to avoid costly misunderstandings later.

NOTE: Given the dynamic nature of this topic and the Inside-Out format, this syllabus is subject to change at any time during the term.

NOTE: See additional handouts on Stateville and Inside-Out rules and regulations regarding clothing, behavior, etc.

GRADING SCALE AND REQUIRED COURSEWORK

Remember: *you earn* your grades; instructors don't simply give them to you.

(DePaul has no A+)	B+ = 89-86	C+ = 79-76	D+ = 69-66	F = <60
A= 100-96	B = 85-83	C = 75-73	D = 65-60	
A- = 95-90	B- = 82-80	C- = 72-70	(DePaul has no D-)	

1. FIVE CASE BRIEFS

25% of grade

Case briefs must not exceed 1 side of 1 typed page, or 3 handwritten pages. See last page of syllabus for briefing guidelines and format.

2. FOUR PERSONAL REFLECTIONS ON THE READINGS

20% of grade

Reflections should be a minimum of 500 words. You will select 4 readings at the beginning of the term, and give me your reflection on the dates you sign up for them. You can write these in standard format, or as a poem, shorty story, or other format. I encourage your creativity, as long as you take the assignment seriously AND stick to the topic.

3. FINAL GROUP PROJECT

35% of grade

This project calls for groups to draft a constitutional amendment, law, petition, or proposal regarding an issue we cover in this course. Groups will present their projects during the last two weeks of the quarter. There are three components, some of which will be graded collectively and some individually (I will distribute detailed instructions later in the term):

1. the name/title and text of the amendment/proposal
2. individually-written reasoning and justifications for key aspects of the amendment/proposal
3. group presentations of the project

4. CLASS PARTICIPATION AND ATTENDANCE

20% of grade

The importance of coming to class is obvious; you can't participate if you're not there. Preparedness and thoughtful responses during Socratic questioning is essential, even if your answer is wrong. Consistent, thoughtful participation will work in your favor. Disruptive, pointless, or disrespectful comments will not be tolerated. There will also be no opportunity to be silent all quarter long.

I will only excuse absences for the following reasons: jury duty, DePaul athletic schedules, religious observations, official campus/road/transportation closures, or Stateville lockdowns. Stateville students will be held to Stateville's absence policy. For DePaul students, each unexcused absence will lower your overall grade by half a letter grade.

POLICY ON LATE WORK: Late assignments will lose half of the total possible credit for the assignment-- no exceptions. Late means any time after class on the day an assignment is due.

WRITING POLICY: *I have high expectations for your writing—so should you!* DO let me know if you have serious concerns about your writing. DePaul students should also utilize DePaul's Writing Center services.

STUDENTS WITH SPECIAL NEEDS: If you require disability accommodations please notify me with the required documentation and requests as stipulated by DePaul's or Stateville's disability services programs.

GRADING CRITERIA:

'A'--designates work of superb quality. Written work is clear, well-organized and thought-provoking, and is free of grammatical and mechanical errors. Case briefs reflect a clear and coherent understanding of both the facts of and doctrine grounding a decision. Class participation is voluntary and frequent. It is also relevant and reflects that you have read the materials, have an excellent grasp of them, and are prepared to discuss them in class. (i.e. frequent but irrelevant comments do not meet this, *or any*, standard.)

'B'--designates work of high quality. Written work reflects solid understanding of the readings, and writing is coherent, with minimal errors. Case briefs reflect a good understanding of both the facts of and doctrine grounding a decision. Class participation is also voluntary, and reflects that you have read and understood the readings well.

'C'--designates work that minimally meets requirements. Written work may contain arguments that are confusing, with minimal evidence of organization. Writing is marred by some errors. Case briefs reflect a basic understanding of both the facts of and doctrine grounding a decision. Class participation is occasional and/or rarely voluntary, with comments that reveal a basic but not strong grasp of issues and concepts.

'D' or below--reflects minimal clarity and comprehension. Written work is confusing, contradictory, repetitive, and/or unsupported, and is weakened by many structural errors. Case briefs reflect little or very confused understanding of both the facts of and doctrine grounding a decision. Class participation is minimal, involuntary, and reveals that you have either not read or understood the readings.

FUNDAMENTAL EXPECTATIONS

1) Attend class a) consistently, and b) on time. I understand that life can get in the way of school, and that you may at times have to miss class. Ultimately, you get out of the course what you put into it. In this regard, consistent and punctual attendance is crucial.

2) Keep up with the readings and coursework. If you fall behind I would be happy to meet with you to help you strategize how to get back up to speed. But I will not simply review the materials for you. Ultimately, of course, it is your responsibility to stay current with the readings and all other coursework.

3) Participate in class discussions. This may be an intimidating thought, especially to those of you who hate to speak up in class. Ideally, such discussions should help you better understand and analyze the readings, which should in turn enhance your grade, and should make things more interesting for everyone. Socratic questioning is intended in part to intimidate (yes—consider this a gentle introduction to the notorious first-year law school experience). It is also intended to foster quick thinking and analysis, both of which are crucial legal and life skills.

4) Put forth your best effort in your writing, no matter how short the length of the assignment. If you write an assignment on the day it is due, and/or if it is little more than a minimally edited first draft, you are courting disaster. Always strive to present your ideas in the best possible light--they deserve it!! If you have problems with or hesitations about writing DO talk to me and/or consult DePaul's Writing Center, (<http://condor.depaul.edu/writing/what/Writing%20Center/wc.html>). Finally, be technologically prepared--*computer glitches, printer problems etc. are not acceptable reasons for submitting late work.*

5) Work honestly. Violations of DePaul's Academic Integrity Policy "include but are not limited to the following categories: cheating, plagiarism; fabrication; falsification or sabotage of research data; destruction or misuse of the university's academic resources-alteration or falsification of academic records; and academic misconduct." This also includes *missing or insufficient citations* of direct quotations, paraphrased quotations or other references to sources. **NOTE: It takes instructors far less time to detect plagiarism than it takes students to commit it.** Depending on the degree of the violation, the penalty will be an "F" for either the assignment or the entire course and will be reported to the Dean of LA&S. See <http://offices.depaul.edu/oa/faculty-resources/teaching/academic-integrity/for-students/Pages/default.aspx>. for further information about this.

6) If in need or trouble, do NOT go it alone. DePaul students should contact the Dean of Students Office (<http://offices.depaul.edu/student-affairs/about/departments/Pages/dos.aspx>) for links to the many services and programs available for students facing various challenges. DePaul tuition pays for these services, so do not hesitate to seek them out when needed.

COURSE READING AND ASSIGNMENT SCHEDULE
Cases that are required reading are specified below in italics.

Mar. 25 First meeting with Stateville students

Introductions, icebreaker discussions, review of syllabus

April 1 First combined meeting with Stateville and DePaul Students

Stateville orientation with Chaplains Adamson and Amos
 Introductions and course overview, if time allows

April 8 Introduction to law, courts, constitutional concepts, connection to politics

Calvi and Coleman, *American Law and Legal Systems*, Chapters 1, 3, 6, 14
 Concepts to focus on: sociological approach, substantive/procedural laws, selection of federal judges, judicial review and *Marbury v. Madison*, original intention/non-interpretation, federalism, separation of powers, due process, incorporation

April 15 Federalism and judicial review

Marbury v. Madison (review Calvi & Coleman, 125-129)

Federalism, judicial review, equal protection, and the ghosts of the past

Dred Scott, The Slaughter-House Cases, Plessy v. Ferguson

INSIDE-OUT 3RD MEETING REFLECTIONS

April 22 Federalism, incorporation, equal protection, and the rights of the accused

U.S. Constitution, Amendments 1-8, 14
 Review Calvi & Coleman, 146-149
Gideon v. Wainwright, Miranda v. Arizona

Brief for *Marbury v. Madison* due in class today

April 29 Federalism, incorporation, and the rights of the accused, continued

Mapp v. Ohio, Johnson v. U.S.

Power, politics, and punishment

Foucault, *Discipline and Punish*, 73-169, particularly “docile bodies”

May 6 Power, politics, and punishment, continued

Foucault, 170-256, particularly “panopticon”
 Mauer and Jones, *Race to Incarcerate: A Graphic Novel*, 1-54

Briefs for *Slaughter-House Cases* and *Gideon* due in class today

May 13 Power, politics, and punishment, continued

Foucault, 257-308

Mauer and Jones, 54-108

The Guardian, “The Disappeared: Chicago Police Detain Americans....”

May 20 Prisons and political consequences

Mauer, Race to Incarcerate, Ch 4, “Crime as Politics”

Rivers, “Mass Incarceration and the Execution of Black Political Power”

Last two briefs due in class today—your choice of what you haven’t briefed before

Class Presentations, 2 groups (members in these groups turn in their last briefs on May 27)

May 27 Prisons and political consequences, continued

Rivers, “From Slave Power to Felon Power....”

Alternatives to prison and punishment as we know it

Kizer, “Behind the Guise of Gang Membership...”

The Guardian, “The Simple Idea That Could Transform U.S. Criminal Justice”

Class Presentations, 2 groups

June 3 Alternatives to prison and punishment as we know it, continued

Angela Davis, Are Prisons Obsolete?, Chapters 1, 5, 6

Calhoun, “Introducing Restorative Justice”

Cook County Juvenile Task Force, “Community Justice Concept Paper”

Class Presentations, 2 groups

Instructions and Format for Briefing Supreme Court Opinions
(See pg. 2 of syllabus for length requirement)

☞ See <http://www.uark.edu/~kshurlds/LAW/opinion.html> for tips on how to read a court opinion.

1. Identify the case by name, case citation number, and year

Hickman v. Taylor, 329 U.S. 495 (1985)

2. Summarize the facts and legal history of the case:

- Names of each party in the case
- Summary of events that led up to the case, including any additional individuals involved
- Summary of preceding court decisions, if that information is available

3. Summarize the issues/legal claims:

- Specify the legal issues the litigants are asking the Court to rule on
- Specify the actual laws at issue (for example, “Mr. X claims that the state violated the 4th amendment”, etc.)
- Note any additional legal issues the Court adds

4. Summarize the Court’s holding:

- This is the Court’s conclusion/s on the claims raised in the case. (This can be tricky to figure out. Sometimes the Court gives a clear “yes” or “no” if the issues/claims are put as a question. Other times, the holding may be buried in more complex phrasing.)

5. Summarize the Court’s rationale/reasoning:

- *The rationale is the heart of the Court’s decision, and thus of your brief.*
- It can also be the most difficult or frustrating part to brief, since the Court’s reasoning can be nuanced, ambiguous, and downright confusing! This is more likely in sensitive or highly political cases.
- You must restate the Court’s reasoning *in your own words* in order to prove that you understand it. *Simply repeating the rationale is no good.*
- Note whether the Court followed or departed from the principle of precedent/*stare decisis*

6. State the Court’s decision—did it:

- Affirm, reverse, or vacate the lower court’s decision?
- Remand the lower court’s decision? (return the case to the lower court for a decision/further proceedings)
- Note, if available, what the split was. (Was it unanimous? 8/1? 5/4? The split tends to reflect the difficulty of the legal issue. *Per curiam* decisions usually indicate that the Court is extremely fractured on an issue, or that a decision is politicized to the point where individual Justices are reluctant to be associated with it.)

7. Discuss dissents when instructed to do so:

- Briefly summarize the key aspects of the dissents.

8. Significance of the case:

- Discuss how the decision is important, both when it was decided and how it affected later policies and practices in that area. *Be careful not to simply impose your contemporary values onto older eras.*
- Note the political significance or aspects of the decision.