

**PSCI 4200: Constitutional Law–Institutional Powers
Spring 2016
TR 2:00 PM–3:20 PM, BLB 015**

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Office: Wooten Hall 154
Office Hours: Wednesdays, 9:00 am–12:00 pm

This course examines the provisions of the United States Constitution that establish the powers of the federal government, place limitations on those powers, and allocate power between the federal government and the states. The sections of the Constitution that deal with questions of civil liberties, civil rights, and criminal procedure are covered in other courses. The decisions of the United States Supreme Court will be used as the primary means of understanding what the Constitution means both in theory and in application. In addition, the course will examine the various forces that influence the Court’s interpretation of the Constitution.

Although there are no formal prerequisites for this course, students who lack an understanding of the primary features of American government, a basic knowledge of United States history, or a good command of the English language will find the course especially difficult. You should expect to spend about 9 hours per week outside of class studying and reading for this course.

Office Hours

My office hours are listed above and I will always be available during those times. Even outside of those hours I am often in my office and you are welcome to stop in any time my door is open.

Class Discussion in Piazza

This term we will be using Piazza for class discussion. The system is highly catered to getting you help fast and efficiently from classmates and myself. Rather than emailing questions that might be of relevance to the entire class, I encourage you to post your questions on Piazza.

Create an account and add this course at piazza.com. After creating and confirming your account, you can access our class page at: <https://piazza.com/unt/spring2016/psci4200/home>.

E-Mail

Should you have private questions or concerns, you can reach me by email at blackstone@unt.edu. If you write me Monday through Friday, I should get back to you within 24 hours. If I don’t, please feel free to send me a reminder! If you write over the weekend, you may have to wait until Monday for a reply. A note on etiquette: (1) please sign your emails with your name, (2) please include an appropriate salutation (Hint: you can’t go wrong with, “Hi, Dr. Blackstone.”), and (3) please ask a specific question if you need a response.

If I need to contact you, I will send you a message at your UNT email address. Please check Blackboard and your UNT email regularly so you will receive all course-related information.

Blackboard

A Blackboard conference is maintained for this course at <https://learn.unt.edu/>. You should check Blackboard regularly to ensure that you are up to date on all class-related information. Some course assignments will be submitted in Blackboard and student grades will be posted in Blackboard.

Facebook

I have created a Facebook group for students enrolled in PSCI 4200. I will post links to news stories related to constitutional law and the U.S. Supreme Court to the Facebook group. You are also welcome to post information relevant to class. Joining the group is optional and will not impact your grade. If you wish to join the group, go to <https://www.facebook.com/groups/bstoneconlaw/>.

Be advised that information you share in the course Facebook page is governed by Facebook's privacy policies. Also, note that I do not guarantee that I will read and respond to every post in the Facebook group; if you have a question that only I can answer, email me or see me in my office.

Required Materials

1. Textbook. Lee Epstein and Thomas G. Walker. 2014. *Constitutional Law for a Changing America: Institutional Powers and Constraints*, 8th edition. Thousand Oaks, CA.: CQ Press. (Hereinafter, *CLCA*.)

- This text can be purchased used at the UNT Bookstore for \$99.40 and new for \$132.55. I realize this is a considerable expense. You are welcome to purchase the text elsewhere, just be sure to buy the 8th edition and be sure that you are buying the *Institutional Powers and Constraints* text, NOT the *Rights, Liberties, and Justice* text!

As of December 14, 2015, the text is available for rental on [Amazon.com](http://www.amazon.com) for \$27.16 or for purchase for \$42.10. The book is also available for rental or purchase at [BigWords.com](http://www.bigwords.com).

Editions of the textbook purchased at the UNT Bookstore will include access to helpful supplementary online resources. If you purchase a copy of the text elsewhere, you have the option to purchase access to the supplementary material separately at a cost of \$18.00 at this link: <http://www.cqpress.com/product/Constitutional-Law-for-a-Changing-28.html>.

2. Clicker. Turning Point Response Card RF-LCD *or* ResponseWare subscription for use on a personal electronic device.

We will make use of clickers in this course. You must either purchase a Turning Point Response Card *or* purchase a subscription to ResponseWare to answer in-class questions on a personal electronic devices (phone, tablet, or laptop). I strongly recommend you purchase a clicker for two reasons. First, using a clicker rather than a phone/tablet/laptop minimizes distractions from your personal device. Second, some students report that the ResponseWare app can be buggy and will sometimes require students to re-enter log-in credentials in the middle of class sessions. You will miss points if your device times out.

- New and used clickers may be rented or purchased at the UNT bookstore. Prices range from for \$29.25 to \$45.70. If you purchase or rent a clicker from another source, be sure that your device is a Turning Technology device. Clickers made by other manufacturers are not compatible.
- In order to use your own device instead of a clicker, you must download the appropriate ResponseWare app for your device (iPhone, Android, etc.) *and* purchase a ResponseWare license.

A one-year license costs \$19.99; a two-year license costs \$29.99. Turning Technologies recommends ResponseWare for use with unlimited data plans; you may incur cell phone service or usage charges.

Electronics Use Policy¹

Research shows that using an electronic device with a screen during class distracts other students around you and hinders their learning. To eliminate the screen distraction “halo” effect on neighbors, we will have two different zones in the classroom to accommodate those who prefer to use electronics and those who wish not to see any electronics:

- Students who would like to be guaranteed a “screen free” zone should sit in the LEFT half of the classroom (as you are facing the front). Students sitting in this area must be able to commit to not using any electronic devices with a screen, of any size (laptop, phone, tablet, iPod, etc.) for the entire 80 minutes of class. You may use your devices before class starts, but you must put them entirely away when class begins and leave them away until class is over.
- Students who will or might be using any electronic devices that have any kind of a screen (excluding Turning Point clickers), or who don’t mind seeing others use such devices, should sit on the RIGHT half of the room. This applies regardless of the reason the student is using the device, whether it is goofing off or not—even if it is a legitimate educational reason or an extenuating personal circumstance (e.g. laptop for notetaking, or checking texts for family emergency). This also applies regardless of the frequency and duration of the electronics use (e.g. glancing at just one text message or actively taking notes for all 80 minutes).

If the number of students using electronic devices is large, we will make the first two rows of the classroom the screen-free zone and the remaining rows the screens-permitted zone.

Assignments & Grading

Student performance will be evaluated on the basis of the following factors:

Component	Percent of Course Grade
Exams	75
Case Briefs	15
Attendance/Participation	10
Total	100

Course grades will be assigned according to the following schedule: $\geq 90\%$ is an A; 80–89% is a B; 70–79% is a C; 60–69% is a D, and $<60\%$ is an F.

Exams (75%)

There will be three exams in the course; each will be worth 25% of your course grade. Exams will include a combination of multiple choice, short answer, and essay questions. Students are responsible for all the assigned readings, everything covered during class sessions, and any other materials made available by the instructor. The third exam is not cumulative but will be administered during the class’s assigned final exam period.

¹Adapted from Julia Kregenow. 2015. “On Monotasking.” *Teach Better* (teachbetter.co), June 9, 2015. <http://teachbetter.co/kregenow/monotask.html>.(Accessed December 15, 2015).

Exams will be administered in the Sage Hall Testing Center located in Sage Hall C330. On exam days, report to Sage C330 instead of our regular classroom.

Case Briefs (15%)

You will prepare case briefs for all assigned cases. Case briefs are short summaries of cases designed to highlight the most important information about a case that has been decided by the Court.

Dr. Kimi King (2007, 142)² provides a great explanation of the purpose of a brief:

Briefs synthesize cases into basic points so you can quickly access information. Briefing requires you study the essential facts and reasoning from the court's opinion and succinctly express them in your own words. This helps you develop a critical facet of legal reasoning—the ability to put complex matters into simple form. Use the court's terminology only if it helps you understand the case or there is a specific standard, test, or rule the court is articulating. Try to use your own language as if you were explaining it to a friend and avoid legalese. This enhances your understanding of the case. Remember, it is not a typing exercise but an exercise in critical thinking!

Several cases will be assigned for each class day. You can work in groups of up to 4 students to complete your briefs. Guidelines for briefing cases will be discussed in class and are posted in Blackboard. Use the [linked Piazza thread](#) to look for teammates.

You should come to class each day with a printed brief for each assigned case. Each brief should include the names of all students in the briefing group. Briefs will be collected for grading at the instructor's discretion.

Attendance & Participation (10%)

The attendance/participation component of a student's course grade will be based on the frequency with which a student comes to class prepared to discuss the day's material and on the student's actual participation orally and via clickers. For oral participation, the quality of a student's participation will be more important than the number of comments made. Doing well in this area of class activity will require daily attendance and preparation. At the instructor's discretion, attendance may be taken into account in responding to special requests and in deciding borderline grades.

Extra Credit

I do not plan to offer extra credit in this course. Students should not expect or ask for additional extra credit. *If* I decide to offer extra credit, it will be offered to the entire class. Note the grading criteria and plan accordingly for your success. If you need a particular grade to graduate, keep a scholarship, etc., then exert the effort necessary to earn such a grade. If problems arise, address them early before they become unresolvable!

Policies

Academic Integrity

Academic Integrity is defined in the UNT Policy on Student Standards for Academic Integrity. Any suspected case of Academic Dishonesty will be handled in accordance with the University Policy and procedures. Possible academic penalties range from a verbal or written admonition to a grade of F in the course. Further sanctions may apply to incidents involving major violations. You will find the policy and procedures at: <http://facultysuccess.unt.edu/academic-integrity>.

²Kimi King. 2007. "How to Brief a Case" in *How to Please the Court: A Moot Court Handbook*. Paul I. Weizer, ed. New York, NY: Peter Lang Publishers.

Americans with Disabilities Act Compliance

The University of North Texas makes reasonable academic accommodation for students with disabilities. Students seeking reasonable accommodation must first register with the Office of Disability Accommodation (ODA) to verify their eligibility. If a disability is verified, the ODA will provide you with a reasonable accommodation letter to be delivered to faculty to begin a private discussion regarding your specific needs in a course. You may request reasonable accommodations at any time, however, ODA notices of reasonable accommodation should be provided as early as possible in the semester to avoid any delay in implementation. Note that students must obtain a new letter of reasonable accommodation for every semester and must meet with each faculty member prior to implementation in each class. Students are strongly encouraged to deliver letters of reasonable accommodation during faculty office hours or by appointment. Faculty members have the authority to ask students to discuss such letters during their designated office hours to protect the privacy of the student. For additional information see the Office of Disability Accommodation website at <http://www.unt.edu/oda>. You may also contact them by phone at 940.565.4323.

Classroom Conduct.

Student behavior that interferes with an instructor's ability to conduct a class or other students' opportunity to learn is unacceptable and disruptive and will not be tolerated in any instructional forum at UNT. Students engaging in unacceptable behavior will be directed to leave the classroom and the instructor may refer the student to the Center for Student Rights and Responsibilities to consider whether the student's conduct violated the Code of Student Conduct. The university's expectations for student conduct apply to all instructional forums, including university and electronic classrooms, labs, discussion groups, field trips, etc. The Code of Student Conduct can be found at <https://deanofstudents.unt.edu/conduct>.

Course Schedule

Every effort will be made to adhere to the course schedule that follows. However, circumstances may arise that will require schedule adjustments during the semester. For example, the dates for particular topics may vary by a day or two depending on how rapidly we are able to cover material. The examination dates should be considered firm, and you should plan your academic and social obligations accordingly. Due dates for case briefs may be extended, but will not be required earlier than listed on the schedule below.

We will adhere to the University's policy on inclement weather. Bad weather will only result in canceling class if the university is closed. Should the university close on a day when we have an examination scheduled, the exam will be held on the next class day the college is officially open. Check your email to find out whether a rescheduled exam will be administered in the testing center or in our regular classroom.

Schedule

Readings and case briefs should be completed prior to the class meeting for which they are listed.

Introduction to the Course and to the Court

- January 19 (T) Read the syllabus.
 Register your clicker in **Blackboard**.
 Create a **Piazza** account and join the class. (Choose “Students Get Started” and follow the on-screen instructions.)
 Use the **course Piazza page** to search for teammates for briefing assignments.
 Join the **class Facebook group**. (optional)
- January 21 (R) Read *CLCA* “An Introduction to the Constitution,” pages 3–10
 Read *CLCA*, Chapter 1, “Understanding the U.S. Supreme Court,” pages 11–47.
- January 26 (T) Read Kerr (2007), “How to Read a Legal Opinion.” (in Blackboard)
 Read “How to Brief a Supreme Court Case.” (in Blackboard)

The Judiciary

- January 28 (R) Read *CLCA* “Structuring the Federal System,” pages 51–56
 Read *CLCA* Chapter 2, pages 57–82
 Brief *Marbury v. Madison* (1803)
 Brief *Martin v. Hunter’s Lessee* (1816)
- February 2 (T) Read *CLCA*, Chapter 2, pages 82–119
 Brief *Eakin v. Raub* (1825)
 Brief *Ex Parte McCordle* (1869)
 Brief *Baker v. Carr* (1962)
 Brief *Nixon v. United States* (1993)
 Brief *Flast v. Cohen* (1968)

The Legislature

- February 4 (R) Read *CLCA* Chapter 3, pages 120–144
 Brief *Powell v. McCormack* (1969)
 Brief *U.S. Term Limits v. Thornton* (1995)
 Brief *Gravel v. United States* (1972)
- February 9 (T) Read *CLCA* Chapter 3, pages 144–182
 Brief *McCulloch v. Maryland* (1819)
 Brief *McGrain v. Daugherty* (1927)
 Brief *Watkins v. United States* (1957)
 Brief *Barenblatt v. United States* (1959)
 Brief *United States v. Curtiss-Wright Export Corp.* (1936)
 Brief *South Carolina v. Katzenbach* (1966)

The Executive

- February 11 (R) Read *CLCA* Chapter 4, pages 183–198
 Brief *Bush v. Gore* (2000)
- February 16 (T) Read *CLCA* Chapter 4, pages 198–227
 Brief *In Re Neagle* (1890)
 Brief *Clinton v. City of New York* (1998)
 Brief *Morrison v. Olson* (1988)
 Brief *Myers v. United States* (1926)
 Brief *Humphrey's Executor v. United States* (1935)
- February 18 (R) Read *CLCA* Chapter 4, pages 227–256
 Brief *United States v. Nixon* (1974)
 Brief *Mississippi v. Johnson* (1867)
 Brief *Nixon v. Fitzgerald* (1982)
 Brief *Clinton v. Jones* (1997)
 Brief *Ex Parte Grossman* (1925)
 Brief *Murphy v. Ford* (1975)
 Brief *United States v. Curtiss-Wright Export Corp.* (1936)
- February 23 (T) ***Exam 1 in Sage C330***

Separation of Powers in Action

- February 25 (R) Read *CLCA* Chapter 5, pages 257–277
 Brief *Mistretta v. United States* (1989)
 Brief *Immigration and Naturalization Service v. Chadha* (1983)
 Brief *Bowsher v. Synar* (1986)
- March 1 (T) Read *CLCA* Chapter 5, pages 277–294
 Brief *The Prize Cases* (1863)
 Brief *Ex Parte Milligan* (1866)
 Brief *Ex Parte Quirin* (1942)
- March 3 (R) Read *CLCA* Chapter 5, pages 294–322
 Brief *Korematsu v. United States* (1944)
 Brief *Youngstown Sheet & Tube Co. v. Sawyer* (1952)
 Brief *Dames & Moore v. Regan* (1981)
 Brief *Hamdi v. Rumsfeld* (2004)

Federalism

- March 8 (T) Read *CLCA* “Allocating Government Power,” pages 325–329
 Read *CLCA* Chapter 6, pages 330–363
 Brief *McCulloch v. Maryland* (1819)
 Brief *Scott v. Sandford* (1857)
 Brief *New York v. United States* (1992)
 Brief *Printz v. United States* (1997)

- March 10 (R) Read *CLCA* Chapter 6, pages 363–390
 Brief *Alden v. Maine* (1999)
 Brief *Michigan v. Long* (1983)
 Brief *State of Missouri v. Holland* (1920)
 Brief *Crosby v. National Foreign Trade Council* (2000)
 Brief *Arizona v. United States* (2012)

March 15 (T) and March 17 (R): *Spring Break, no class meetings*

The Commerce Power

- March 22 (T) Read *CLCA* Chapter 7, pages 392–415
 Brief *Gibbons v. Ogden* (1824)
 Brief *United States v. E.C. Knight Co.* (1895)
 Brief *Stafford v. Wallace* (1922)
 Brief *Champion v. Ames* (1903)
 Brief *Hammer v. Dagenhart* (1918)

- March 24 (R) Read *CLCA* Chapter 7, pages 415–448
 Brief *Schechter Poultry Corp. v. United States* (1935)
 Brief *NLRB v. Jones & Laughlin Steel Corp.* (1937)
 Brief *United States v. Darby* (1941)
 Brief *Wickard v. Filburn* (1942)
 Brief *Heart of Atlanta Motel v. United States* (1964)

- March 29 (T) Read *CLCA* Chapter 7, pages 448–482
 Brief *Garcia v. San Antonio Metropolitan Transit Authority* (1985)
 Brief *United States v. Lopez* (1995)
 Brief *United States v. Morrison* (2000)
 Brief *Gonzalez v. Raich* (2005)
 Brief *National Federation of Independent Business v. Sebelius* (2012)

- March 31 (R) Read *CLCA* Chapter 7, pages 482–502
 Brief *Cooley v. Board of Wardens* (1852)
 Brief *Southern Pacific Company v. Arizona* (1945)
 Brief *Hunt v. Washington State Apple Advertising Commission* (1977)
 Brief *Maine v. Taylor* (1986)
 Brief *Granholt v. Heald* (2005)

April 5 (T) ***Exam 2 in Sage C330***

The Power to Tax and Spend

- April 7 (R) Read *CLCA* Chapter 8, pages 503–522
 Brief *Pollock v. Farmers' Loan & Trust Co.* (1895)
 Brief *United States v. United States Shoe Corp.* (1998)
 Brief *South Carolina v. Baker* (1988)
 Brief *Davis v. Michigan Department of Treasury* (1989)
- April 12 (T) Read *CLCA* Chapter 8, pages 522–550
 Brief *McCray v. United States* (1904)
 Brief *Bailey v. Drexel Furniture Co.* (1922)
 Brief *United States v. Butler* (1936)
 Brief *Steward Machine Co. v. Davis* (1937)
 Brief *South Dakota v. Dole* (1987)
 Brief *National Federation of Independent Business v. Sebelius* (2012)
- April 14 (R) Read *CLCA* Chapter 8, pages 550–564
 Brief *Michelin Tire Corp. v. Wages* (1976)
 Brief *Complete Auto Transit v. Brady* (1977)
 Brief *Quill Corp. v. North Dakota* (1992)
 Brief *Oregon Waste Systems, Inc. v. Department of Environmental Quality of Oregon* (1994)

The Contract Clause

- April 19 (T) Read *CLCA* “Economic Liberties and Individual Rights,” pages 569–571
 Read *CLCA* Chapter 9, pages 572–604
 Brief *Fletcher v. Peck* (1810)
 Brief *Trustees of Dartmouth College v. Woodward* (1819)
 Brief *Proprietors of Charles River Bridge v. Proprietors of Warren Bridge* (1837)
 Brief *Stone v. Mississippi* (1880)
 Brief *Home Building & Loan Association v. Blaisdell* (1934)
 Brief *United States Trust Co. v. New Jersey* (1977)
 Brief *Allied Structural Steel Co. v. Spannaus* (1978)

Substantive Due Process

- April 21 (R) Read *CLCA* Chapter 10, pages 606–639
- Brief *The Slaughterhouse Cases* (1873)
 - Brief *Munn v. Illinois* (1877)
 - Brief *Allgeyer v. Louisiana* (1897)
 - Brief *Lochner v. New York* (1905)
 - Brief *Muller v. Oregon* (1908)
 - Brief *Adkins v. Children's Hospital* (1923)
- April 26 (T) To be scheduled
- April 28 (R) Read *CLCA* Chapter 10, pages 639–662
- Brief *Nebbia v. New York* (1934)
 - Brief *West Coast Hotel v. Parrish* (1937)
 - Brief *Williamson v. Lee Optical Company* (1955)
 - Brief *BMW of North America v. Gore* (1996)
 - Brief *Caperton v. A.T. Massey Coal Co.* (2009)

The Takings Clause

- May 3 (T) Read *CLCA* Chapter 10, pages 663–695
- Brief *United States v. Causby* (1946)
 - Brief *Penn Central Transportation Company v. City of New York* (1978)
 - Brief *Nollan v. California Coastal Council* (1987)
 - Brief *Lucas v. South Carolina Coastal Commission* (1992)
 - Brief *Berman v. Parker* (1954)
 - Brief *Hawaii Housing Authority v. Midkiff* (1984)
 - Brief *Kelo v. City of New London* (2005)

Course Wrap-Up

- May 5 (R) To be scheduled
- May 12 (R) ***Exam 3 in Sage C330 from 1:30–3:30 pm***