GOALS AND PURPOSE OF THE COURSE

The Constitution is a vernacular document. It was intended for all of us. The legal priorities set by the courts must be ratified in the larger court of American public opinion. Without the support of that final authority, the Constitution would stiffen and lose its blood supply.

-Fred W. Friendly

First take careful note of what the course is not. It is not meant as an equivalent to a Law School course in Constitutional Law. Instead, it is a Political Science course which focuses on long-standing U.S. dilemmas concerning individual rights, public policy and public ethics. It does, however, draw substantive unity and coherence by using the United States Constitution as a "gridiron" of sorts, upon which these battles have been and will be fought. And for the purpose of pedagogical unity and coherence, hypothetical situations will be posed and "resolved." The latter is done in order to achieve what Fred Friendly terms "putting people into situations so agonizing that they can escape only by thinking."

More specifically, the goals of the course are to:

(1) demonstrate the Constitution's central position in the daily concerns of doctors, teachers, parents, students, employers, workers, journalists, public officials and lawyers;

(2) explore basic components of the U.S. judicial process, as well as landmark cases and doctrines in U.S. constitutional law;

(3) show that the legal process is a complicated one which continues outside legislatures and courtrooms;

(4) encourage students to develop more logically coherent positions on fundamental political, legal and ethical problems of our time.
COURSE REQUIREMENTS:

Readings -- do them all carefully and critically prior to class.
Class Contribution -- attend all classes and come prepared to participate.

First Exam
Midterm Exam
A Case Brief
Case Opinion
Final Exam

REQUIRED TEXTS

David O'Brien, Civil Rights and Civil Liberties (2005)
Select Readings (on Moodle)

note: you can receive U.S. Supreme Court opinions via: www.liibulletin.law.cornell.edu

GRADES

Class Participation  20%
First Exam 10%
Midterm Exam 20%
Case Brief 20%
Court Role 10%
Final Exam 20%

100%

Course Rule #1: Looking at previous years’ cases, essays, briefs or opinions is not allowed and will be viewed as a serious violation of the Honor Code. When you pledge your exams, you will be pledging in part that you have not seen any such materials. The one exception are the samples I have placed on closed reserve.

Course Rule #2: Carelessness in documenting sources, even if not technically plagiarism, will be penalized as the instructor deems appropriate. In addition, Wikipedia, blogs and other non-refereed sources should be cited if used, but they are not considered to be authoritative references sources.

Course Rule #3: You may take exams early but not late. Call me ahead of the exam if you will miss it due to illness (or other emergency). Otherwise, NO MAKE-UP EXAMS!

Course Rule #4: You may miss up to 4 classes without penalty. Thereafter, absences will count against your class participation grade and that grade will be averaged into your final grade even if it lowers that final grade.
COURSE OUTLINE

Course Introduction

January 10

I. Constitutional Law and Politics: An Overview
   Read: O’Brien, chs. 1-4
   The Constitution of the United States
   Dorf, Law Stories, Lochner (ch.10)

Judicial Process Exam

January 22

II. Constitutional Dilemmas

A. Right to Assemble and Speak
   Jan. 24 – Feb. 12
   1. Court Precedent: 1790-present
      Read: O’Brien, pp. 386-430, 526-533, 637-687
      Friendly & Elliott, Constitution, DeJonge (ch.5)

   2. Obscenity and Case Studies
      Read: O’Brien, pp. 430-526
      George Will editorial, rap lyrics

B. Separation of Church and State
   February 14-26
   1. Establishment Clause
      Read: O’Brien, pp. 688-798
      Friendly & Elliott, Constitution, Engel (ch.7)

   2. Free Exercise Clause
      Read: O’Brien, pp. 798-849
      Dorf, Law Stories, Smith (ch. 14)

MIDTERM EXAM

February 28

Spring Break Week

C. A Right to Privacy
   March 11-18
   1. Sexual Privacy
      Read: O’Brien, pp. 1222-1284
      Friendly & Elliott, Constitution, Roe (ch.12)

   2. Gay Rights
      Read: O’Brien, pp. 1285-1305
      Katch & Rose, Taking Sides, Same Sex Marriage (ch.16)
C. A Right to Privacy (cont.)

3. A Right to Die
   March 18
   Read: O'Brien, pp. 1305-1324
   Katch & Rose, Taking Sides, Assisted Suicide (ch.3)

Easter Break

D. Rights of the Accused
   Mar. 25 - Apr. 8

1. Fourth Amendment
   March 25
   Read: O'Brien, pp. 850-863
   Katch & Rose, Taking Sides, Thermal Imaging (ch.9)

2. Exceptions
   March 27
   Read: O'Brien, pp. 864-924
   U.S. Supreme Court, Yarborough Decision

3. Other Exceptions: Drug War, etc.
   April 1
   Read: O'Brien, pp. 924-985
   Katch & Rose, Taking Sides, Drug Testing (ch.13)

4. Fifth and Sixth Amendments
   April 3
   Read: O'Brien, pp. 1018-1115
   Katch & Rose, Taking Sides, Requiring ID (ch.7)

5. Exclusionary Rule
   April 8
   Read: F&E, chap. 8; O'Brien, pp. 985-1017
   Friendly & Elliott, Constitution, Mapp (ch.8)

MOOT COURT EXERCISE

Briefs Due in Pohlmann’s “Public Folder”
   April 8
   Oral Arguments
   April 10-17

Deliberations
   April 22
   Due: Preliminary Opinions

Opinions Rendered and Discussed
   April 24
   Due: Group and Individual Opinions

FINAL EXAM
   Tuesday, April 29 (8:30)