

MIDTERM EXAM -- P Sc 104D – Visiting Professor G. Smith – FALL 2012

Overall Instructions

1. This is an OPEN BOOK, OPEN NOTE EXAM. You may use your Carp and Baum books, class notes (including old AS notes), and any handouts made available in the course. You may NOT use cell phones, PDAs, or laptops.
2. The exam is in TWO PARTS. PUT YOUR ANSWERS FOR EACH PART IN A DIFFERENT BLUEBOOK, BEARING YOUR NAME. When you turn in your exam, TUCK THIS DOCUMENT (WITH YOUR NAME ON IT) INSIDE THE FRONT COVER OF THE PART I BLUEBOOK.
3. You have 1 HOUR and FIFTY minutes to answer the exam questions. I recommend that you spend some time reading the entire exam, thinking about the questions, and planning your answers before you begin writing. (Note: The amounts of time given for each section below are *writing* times; they assume that you spend 30 minutes reading, thinking, and planning and then 20 minutes writing the answer to each question.) How you use the available time is up to you. However, BUDGET YOUR TIME to spend substantial time on each exam question.
4. You may turn your exam in at any time before the last 10 minutes of exam time and leave quietly (INCLUDING MAKING SURE CLASSROOM DOORS DO NOT SLAM BEHIND YOU!!) IF YOU FINISH WITHIN THE LAST 10 MINUTES, PLEASE REMAIN QUIETLY IN YOUR SEAT out of politeness to your colleagues. Exams will not be accepted during the last 10 minutes.

After the exam concludes and a 15-minute break time occurs, we will reconvene to cover additional material.
5. Do everything you can to MAKE YOUR ANSWER READABLE. Feel free to use headings, topic sentences, writing big, writing on every other line, or whatever else you know improves your exam readability.
6. Be sure to follow the instructions on exam format carefully. Note that the questions instruct you to choose among options. Be sure you only answer the indicated number of options; there is no additional credit for multiple answers.
7. ANSWER THE QUESTIONS DIRECTLY AND IN THE LENGTH REQUESTED. Make sure your “paragraphs” are to-the-point responses of 6-7 sentences. Avoid unfocused, overly generic answers. There is no specific penalty for overly long answers, but they waste valuable exam time and are more likely to veer into irrelevant or inaccurate answers reducing your grade.
8. Generally, it is better to answer the questions in your own words than to quote the language of others. (An exception is, occasionally, when a sentence from a textbook is especially well worded or useful.)
9. The midterm exams will be returned in class, and available thereafter from the TAs or Professor Smith. YOU DO NOT NEED TO EXECUTE THE BUCKLEY WAIVER.

PART I
Two, One-Paragraph Concept Explanation / Identification Questions
(WORTH 50% of EXAM POINTS; Proportional Writing Time = 40 Minutes)

*****PLEASE ANSWER THE TWO PART I QUESTIONS IN ONE BLUEBOOK**

A. CHOOSE ONE of the following statements:

1. Beyond a simple-minded view of “judicial activism” as “the decisions you don’t like,” there is more than one way to define when a judge is being “activist” (as opposed to acting with “judicial restraint”). Depending upon which conception you use, different types of decisions will end up being labeled “activist.”
2. Beyond establishing the broad framework in which selection of federal judges occurs, the U.S. Constitution plays only a minor role. The processes by which presidents select nominees and otherwise interact with Senators are much more a function of non-constitutional traditions and arrangements, as well as practical political realities.
3. The criminal process before a defendant actually goes to trial provides a good illustration of the basic truth that judicial policymaking opportunities are not uniform. At some points in the process before trial, judges have significant discretion and influence. At many other points, however, judges have little or no discretion, and therefore do not have significant opportunities for influence.

Then, IN ONE PARAGRAPH that begins by clearly indicating the number of the statement you are addressing, BRIEFLY ILLUSTRATE the thought process behind your chosen statement through TWO EXAMPLES from the course texts or from other materials discussed in P Sc 104D.

B. CHOOSE ONE of the following paired concepts:

1. The role and importance of partisan elections in initially choosing or retaining trial-level state judges /// The role and importance of partisan elections in initially choosing or retaining state Supreme-Court justices
2. Explaining Supreme Court decision in terms of the justices following their policy preferences /// Explaining Supreme Court decision in terms of the justices responding to legal-system factors
3. The role of interest groups in influencing the cases taken and decisions made by the U.S. Supreme Court /// The role of the U.S. Solicitor General in influencing the cases taken and decisions made by the U.S. Supreme Court

IN ONE PARAGRAPH BRIEFLY EXPLAIN what you regard as THE TWO MOST IMPORTANT DIFFERENCES between the first and second concepts in the pair you selected. [NOTE: In some cases it may be useful to use specific examples to enhance your explanation of differences.]

PART II

Two, One-Paragraph Position Argumentation Questions

(WORTH 50% of EXAM POINTS; Proportional Writing Time: 40 Mins.)

****IN A SECOND BLUEBOOK PLEASE ANSWER QUESTIONS C & D BELOW**

At a recent panel discussion on “Judicial Politics and Selection,” the following exchange took place:

Professor 1: The Framers of the U.S. Constitution were wise to give federal judges life tenure and to avoid their having to face voters in a popular election either to gain their positions or to retain them. Judicial independence is very important – and popular elections are too much of a threat to judicial independence.

Professor 2: But the current federal judicial-selection process isn’t nearly as immune from electoral political pressures as you assume. In significant (although indirect) ways, voters and those representing them have a crucial impact of federal judicial selection.

Professor 3: Unlike you two, I think it’s appropriate and necessary for judges to be significantly subject to electoral political pressures. Modern judges have a major impact on important areas of public policy – and judges have so much room to reflect their ideological and partisan agendas -- that significant electoral accountability is essential if we are to avoid being ruled by “judicial tyrants.”

Professor 4: Well, on that last point, I think you’re overstating the impact of judges. Take the highest court in the land -- the U.S. Supreme Court. As powerful as it is, it is quite limited in its ability to impact the policy issues and concerns of most American.

C. SELECT ONE of the professors’ positions. Then, IN ONE PARAGRAPH, use the course materials to BRIEFLY DEVELOP what you regard as the TWO BEST ARGUMENTS (or EXAMPLES) IN SUPPORT OF your selected position.

D. SELECT ANOTHER professor’s position. Then, IN ONE PARAGRAPH, use the course materials to BRIEFLY DEVELOP what you regard as the TWO BEST ARGUMENTS (or EXAMPLES) IN SUPPORT OF your selected position.

--END OF EXAMINATION--