**University of North Texas--Department of Political Science**  
**Constitutional Law I–Institutional Powers and Equal Protection**  
**PSCI 4200.001–Spring 2011; M/W/F 2-2:50 PM; Matt 311**

**Professor:** Kimi Lynn King  
**Office:** M/W/F 9-11 AM & by appointment; 148 Wooten  
**Phone:** 565-4984 (office); 565-2276 (poli sci office)  
**e-mail:** kking@unt.edu  
**Class:** M/W/F 2-2:50 PM

**Teaching Assistant:** Bekah Kopsky  
**Office:** M/W 3-4 PM, Tu/Th 2-3 PM; 142 Wooten  
**Phone:** 565-4963  
**e-mail:** bekahkopsky@yahoo.com

**Required Text:**
1) David M. O'Brien, *Constitutional Law & Politics: Struggles for Power and Governmental Accountability*, (vol. 1) (7th ed.) [NY: W.W. Norton] (2009). ***PLEASE NOTE! Be sure you have volume I (not volume II). You have a handout for the portion we will use from volume II.***


**Required on the Web:** [www.ecampus.unt.edu](http://www.ecampus.unt.edu)

**Required and on reserve at Willis Library & in rm. 125 Wooten Hall:** David M. O'Brien. "The Equal Protection of the Laws"-- Chapter 12–under Dr. King-2 hour reserve (the packet may not be checked out from the library). You must show identification. You may also pay to purchase a copy of the packet for $15. See Dr. King for information.

**Course Objectives and Goals:**
This course is designed to examine the text and substance of the U.S. Constitution and its development within the past 220 years. Our framework for evaluating constitutional jurisprudence considers the context of the framers' theory of law and order and the present policy questions facing our political system. The sections of the course are devoted to understanding the history and development of the Constitution and the courts. The goal of this course is to provide you with an in-depth evaluation of the institutions of government, the relationships and power struggles between the three branches, the role of the Supreme Court in resolving institutional conflicts, the relationship between the federal government and states' rights, and the perplexing problem of equal protection.

We begin with the issue of judicial review and methods of judicial interpretation, focusing specifically on judicial activism and restraint. Here, we focus on standing, jurisdiction, and the structure of federal and state court systems. We address the Supreme Court's gate-keeping function in resolving disputes. We then address the horizontal separation of powers and examine both foreign and domestic powers of the Presidency, as well as the inter-branch rivalry of institutions that have appeared throughout our history. We question whether the three branches are truly a separation of powers or whether each institution shares power with the other branches. This section evaluates the role of the judiciary in shaping political institutions. The next sequence of the course shifts gears to examine the relationship and the role of states in our distinct federal system. Here, we examine federalism, states' rights, and the vexing problems associated with this unique relationship to address whether the limits and contours of federal government intervention have dominant themes throughout history including the powers and privileges granted to Congress. We conclude this section by addressing the most enduring and yet contentious issue of our time—civil rights—including voting rights, equal protection, discrimination, and everyone’s favorite—affirmative action.

By the end of this course you should be able to:
* discuss the past and current socio-political climate of the Supreme Court's decision-making process
* understand legal concepts utilized by the Supreme Court and important to Constitutional jurisprudence
* discuss recent trends in Constitutional decision-making
* understand the legal underpinnings and parameters of the Constitution
* understand and articulate current standards and legal tests utilized by the Supreme Court in deciding institutional conflicts
*brief court decisions  
*conduct appellate court research  
*present appellate court arguments  
*argue principles involved in Constitutional cases  
*articulate policy arguments for or against judicial interference into federal and state institutions  
*understand and discuss legal cases involving: judicial review; standing; jurisdictional authority; separation of powers; executive privilege; national security; war-making powers; appointment and removal powers; legislative enactments; taxing and spending powers; federalism; states' rights; voting rights; equal protection; reverse discrimination; affirmative action.

**Course Policies:**
First, this class operates under a "No-Excuse" policy. It is incumbent upon you to be responsible for the notes in the unlikely event you miss class. Because this is an upper division class and if you intend to pass, you should plan on regularly attending class and preparing the weekly briefs as they are assigned. I do not have a mandatory attendance policy, however, if you are called on and not present in class your class participation grade will suffer. There is a sign-up sheet at the beginning of class to keep track of who has attended so we know who to call on, and it is your responsibility to record your attendance. There are few reasons why you might miss an exam and NOT contact us in advance! Unexcused exams receive a failing grade (0 points). In the event you are unable to attend class, you cannot make-up assignments, extra credit opportunities, or exams. Persons with extenuating circumstances should see me if you have problems.

Second, if you are physically challenged, every attempt will be made to accommodate your learning needs. You should see me by the end of the first week of class so that we can make appropriate arrangements. This class operates in accordance with the Office of Disability requirements here at the University of North Texas and federal guidelines governing the Americans with Disabilities Act (1990).

Third, please consult the University policy and penalties regarding plagiarism and cheating that is provided for you. Almost every semester at least one student appropriates the published work of someone else, and I have had the unfortunate job of failing someone and seeking disciplinary action. There really is a difference between the work of a college junior or senior and a Supreme Court Justice, federal judge, or legal scholar! This semester you must submit all written briefs through turnitin.com on www.ecampus.unt.edu to verify that this is original work. Please sign the last sheet of the syllabus when you return your information sheet so we can be sure you understand the seriousness of these concerns.

Fourth, this is an upper division legal course, and you should devote about 8-12 hours per week outside of class studying, preparing briefs, reading, and meeting with other students to prepare your moot court case. I do not assume that anyone in this class has ever had a legal course or has done legal research. While I do not enforce the pre-requisites for this class, you may be more comfortable if you have taken other law related courses. Make no mistake: this is not an easy course. If you survive with a B or better grade, you should consider attending law school—this course is a small dose of what to expect.

Fifth, as for the Moot Court assignment—written appellate and oral argument--I expect that you will treat the students you work with as colleagues and cooperate as a team. Because of concerns that some people may be "slackers," you should feel free to consult with me about problems you are having. All discussions will be strictly confidential, however, should the problem become too onerous, I reserve the right to have a conference with each of you. If your partner should not fulfill all of his/her responsibilities, your grade will not suffer as a result: you are each graded individually. The experience is supposed to be valuable and fun training, not an assignment from purgatory, and not one that you dread because the people you are working with decided to snore through the experience.

Sixth, this is a course that engages in difficult discussions about our political rights and freedoms. You are expected to treat the material as mature adults. Hopefully we will have intelligent arguments regarding the legal principles involved, even if we do not agree on the policy outcomes. We can agree to respect everyone's opinion. You have the right to express your views openly without fear of reprisal from other students or myself. No one in this class will be censored or have free speech rights limited, except to the extent that it creates a substantial or material disruption to the order and discipline of the classroom environment.
Seventh, during the semester there are numerous opportunities for you to "earn" extra credit points. Prior assignments have included looking up specific questions about the subject material we are studying, and briefing additional cases that are above and beyond what is required for the weekly briefing assignments. This extra credit is announced sporadically in class. If you miss class, you should check with classmates about missed opportunities. I reserve the authority to deny you the extra credit option should you miss the class period for which it was assigned.

Eighth, there are numerous ways to contact me. I have voice mail on my office extension and check e-mail daily. If you attempt to contact me, please be sure to leave a message and indicate relevant phone numbers and times when you can be reached. If you do not let me know that you are looking for me, how should I know that I need to communicate with you?!

Ninth, all assignments must be submitted online this semester using Blackboard so there is no need to leave assignments anywhere else. Be sure to keep copies of ALL your assignments, regardless of when you turn in the work. In the unlikely event an assignment is lost, it is your responsibility to provide a duplicate. Do not assume I have received your assignment. All assignments will be returned within one week of the due date. Even after materials are returned, please hold on to the work until after you have received your grade from the Registrar. This protects you from receiving an erroneous grade. Late assignments are marked down depending on the lateness of the assignment.

Tenth, I require that everyone learn how to use Blackboard. You should go log on to www.ecampus.unt.edu the first day of class. Please note: You are responsible for any assignments or other information distributed on the Blackboard, class e-mail. I post any changes on Blackboard via e-mail and/or the announcement function and/or the email function.

Eleventh, having worked my way through college, I recognize the cost of textbooks is ugly for students. As such, all of the required texts for this class are on reserve at Willis Library under my name and course number. Please be courteous to your peers—there is nothing more annoying than having pages ripped from books or having materials disappear. I reserve the authority to fail anyone who destroys library materials and refer that person for disciplinary proceedings.

Finally, this syllabus is not deemed to be a contract. I reserve the authority to change listings by providing you with a 48 hour notice of such changes on Blackboard email, Blackboard announcements, or in-class, and you are responsible for any changes that may occur during the course of the semester. If you are late, you should check to be sure you did not miss anything.

Course Evaluation: Your grades are determined by the following criteria:

1st Exam = 20%
2nd Exam = 20%
3rd Exam = 20%
Class Participation & Daily Briefs = 20%
Moot Court Written Brief = 10%
Moot Court Oral Argument = 10%

Exams: There are three (3), in-class, closed-book exams. All exams are divided between multiple guess (30%), short identifications (40%), and essays (30%). The essay question is given to you one week prior to the exam, and it is take home. Submit your essay in the drop box on the day you are to take the test (you may use notes and the text for this part of the test as it is take home). Exams are non-cumulative in the sense that they focus on the specific topics and reading assignments delineated by each section with some overlap between unit concepts. We review every day in class for the exam, so you are expected to bring questions about the material to class. The final IS NOT comprehensive, but focuses on topics presented in the final section of the class. No make-up exams are allowed absent exigent circumstances, and each missed exam results in a 0 for points.

You have two testing options in this class: 1) in-class computerized on-line version of the test by using your own laptop which you bring to class, or 2) computerized on-line version of the test in a designated computer lab during your regular class time. The test is computerized, on-line in Blackboard on a lockdown browser, which only allows student access to the test from the classroom and prevents students from Web access. At the completion of your test, you will receive your multiple-
choice grade immediately through Blackboard, and it is uploaded to the online grade book. I will grade the essay and ID sections online and you will receive your grade and the feedback through Blackboard.

We will test the computers during the second week of class to make sure the bandwidth in the room holds all of the computers at once. Please make sure your laptop has the necessary tune up and can run Blackboard applications efficiently. Contact Blackboard support by phone at 940.565.2324 or in person in ISB Room 119. Blackboard support can resolve your computer issues much quicker than I can, so please contact them as soon as an issue arises. In the event your computer cannot perform the necessary functions for this course, you are still responsible for submitting all of the course materials through Blackboard. The University has computer labs equipped to handle any computer issues.

**Class Participation:** Class topics are discussed using the Socratic method typical of law schools. You are expected to prepare for discussions. Attendance is not mandatory, but there is a sign-up sheet to know whether you regularly attended class to keep track of who is present to be called upon to answer questions. If your grade is "borderline" at semester’s end, we will consult attendance to give you the benefit of the doubt. Students who regularly miss class are not going to receive the “I care you know” topic areas which appear on the tests.

**Daily Briefs:** Readings should be completed PRIOR to the day for which they are assigned. Some readings are dense and difficult. Give yourself enough time to get through all of the material. When we read cases from O'Brien, you are expected to "brief" each case and answer questions regarding the specific details and reasoning provided in the opinions. These "daily briefs" are collected and included in your **class participation portion of the grade.** Each brief is worth one point, and exceptional briefs receive an additional one-tenth of a point. Briefs are accepted late, however, for each week day (Monday through Friday) that the brief is late, we deduct one-tenth of a point. Briefs more than two weeks late are not accepted. All briefs must be submitted through turnitin.com, and we can personally teach you how to use the computers.

The daily briefs and class participation are easy ways to increase your grades. Some students think they can punt the daily briefs, but do not expect to pass this course if you do not submit at least half (50%) of the daily briefs assigned (excluding the ones that I give for extra credit). Every semester at least one person fails the course because they did not take this policy seriously! Do not let this happen to you! Every daily brief is on a test--even if these cases only receive cursory attention during class. While students freak out when they see the number of briefs assigned, remember that the briefs save you for the tests! Some briefs may be given as extra credit.

I have assigned you to a brief writing group, which means you will share the writing responsibilities with three of your classmates. For each brief one of your group members submits, every member will receive the same grade. Everyone will complete Marbury v. Madison, the first brief, independently so I can give you individual feedback. If you have any issues with a group member, contact me immediately so we can remedy the situation. Do not wait until late in the semester and complain that someone in your group has not completed his or her share of the assignments.

**Moot Court Assignment:** The final portion of your grade is the moot court argument. The assignment includes a written brief (10%) and oral argument (10%) that you present in front of a panel of attorneys, law students, and the moot court team. The topic for the oral and written brief is drawn from a current controversy in the lower courts, and it is discussed in class. It is important that you spend time preparing both components. You should begin preliminary research immediately on your issue (find your case under the “moot court” tab on Blackboard, find newspaper/magazine articles discussing the case, etc.).

You are expected to do approximately 30-35 additional hours of research in preparing for your brief and argument. You may use research from any resource you may find, and most of you will find the electronic research the most helpful. The objective of this exercise is to help you acquire skills in legal research and writing. Additionally, the exercise is designed to help you develop argumentation and debate abilities. Part of this process is to assist you in becoming comfortable with doing research relating to legal topics. There will be presentations in class to assist you!

You and a partner are responsible for writing and presenting written and oral arguments, however, you are each graded independently for your section of the assignment. You are both arguing on behalf of the same client, but you are arguing two different questions that have been certified for review. If your partner flakes out, you are responsible ONLY for your
You are only required to provide one-half of the appellate brief (your partner argues the other half). You and your partner are given two certified questions from the case, and each of you are required to prepare a written argument. The argument should be 8-10 pages, double-spaced and typed FOR EACH PARTNER (so you write 8-10 pages on your half of the argument/issue) and your partner writes 8-10 pages on her/his half of the argument (the issue s/he takes). The margins should be no more than one inch on all sides, and only 10 and 12 point font types should be used.

After writing your written brief, you present your oral argument in front of a judicial panel that questions you about the facts and legal issues of the case. The argument should last approximately ten (10) minutes including the time allotted for answering questions from the panel. You and your partner argue for a total of 20 minutes. These sessions are videotaped and open to members of the University of North Texas community. Legal research should not overwhelm you. Remember, attorneys are just undergraduates who took a few more courses after they graduated from college!
<table>
<thead>
<tr>
<th>Week</th>
<th>(Jan 18-22)</th>
<th>Course requirements (syllabus and attachments-return policy on plagiarism)</th>
<th>how to brief a case</th>
<th>Appendix 6: “How to Brief a Case;” Appendix 7: “Sample Case Brief”</th>
<th>log on to <a href="http://www.webctvista.unt.edu">www.webctvista.unt.edu</a> &amp; check email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 3</td>
<td>(Feb 6-12)</td>
<td>Way Over There--The President Abroad</td>
<td>O’Brien, Chp. 3, &quot;Presidential Power, the Rule of Law, &amp; Foreign Affairs&quot; pp. 232-337</td>
<td>m-brief U.S. v. Curtiss-Wright p. 241</td>
<td>The Prize Cases p. 276</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- f-brief Clinton v. City of New York p. 442</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- f-brief Clinton v. Jones p. 472</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MC:</td>
<td>- w-Treasure Hunt #1 due</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 5</td>
<td>(Feb 20-26)</td>
<td>Separation of Powers or Separate Institutions Sharing Powers? (Continued)</td>
<td>- f-First Exam</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# Section II

## Week 6 (Feb 27-Mar 5)

**Lecture:**  
*Membership Has Its Privileges!*

**Readings:**  

**On-Line:**  
- w-brief *Powell v. McCormack* p. 489  
- w-brief *Hutchinson v. Proxmire* p. 509  
- f-brief *U.S. Term Limits v. Thornton* p. 494  
- f-brief *Gibson v. Florida Legislative Commission* p. 531  

## Week 7 (Mar 6-12)

**Lecture:**  
*The Vices & Virtues of Divided Government*

**Readings:**  
- Weizer, Chapter 4: “From Opening to Closing: Ten Keys to Success and Other Helpful Tips”  
- Weizer, Chapter 5: “Moving Beyond the Classroom: The Moot Court Tournament”

**MC:**  
- Submit Moot Court outline with point headings & cases that will be used under each point heading (should be about 1-2 pages single spaced)

## Week 8 (Mar 13-19 Spring Break-No Classes!!)

## Week 9 (Mar 20-26)

**Lecture:**  
*Is Uncle Sam Getting a New Deal or Just a Raw Deal From the Supreme Court?*

**Readings:**  
- O’Brien, Chp. 6 "Congress: Legislative, Taxing, & Spending Powers" pp. 542-680

**On-Line:**  
- m-brief *McCulloch v. Maryland* p. 553  
- m-brief *Gibbons v. Ogden* p. 564  
- m-brief *Hammer v. Dagenhart* p. 581  
- w-brief *Wickard v. Filburn* p. 602  
- w-brief *South Dakota v. Dole* p.677  
- f-brief *Heart of Atlanta v. U.S.* and *Katzenbach v. McClung* p. 605 (do as one brief)  
- f-brief *U.S. v. Lopez* p. 614  
- f-brief *City of Boerne v. Flores* p. 630

**MC:**  
- m-Treasure Hunt #2 due

## Week 10 (Mar 27- Apr-2)

**Lecture:**  
*The Fifty States versus Uncle Sam--Federalism at the Crossroads*

**Readings:**  
- O’Brien, Chp. 7, "The States & American Federalism" pp. 681-832

**On-Line:**  
- m-brief *Maine v. Taylor* p. 709  
- m-brief *Cooper v. Aaron* p. 805  
- w-brief *Garcia v. San Antonio Metropolitan Transit Authority* p. 739  
- f-brief *Printz v. U.S.* p. 758  
- f-brief *Withrow v. Williams* p. 817

**Exam:**  
- f-Second Exam
### Section III

#### Week 11 (Apr 3-9)

**Lecture:** Voting the Rascals Out

**Readings:**
- O'Brien, Chp. 8, "Representative Government, Voting Rights & Electoral Politics" pp. 833-987
- Weizer, Chapter 6: “Conclusion: Life after Moot Court”

**On-Line:**
- m-brief Baker v. Carr p. 150 (Chp. 2)
- w-brief Reynolds v. Sims p. 873
- f-brief Wesberry v. Sanders p. 867

**MC:**
- w-Draft of Moot Court written brief due

#### Week 12 (Apr 10-16)

**Lecture:** Separate But Unequal–School Desegregation Battles & Retreats

**Readings:**
- O'Brien Chp. 12 "The Equal Protection of the Laws" – on Blackboard

**On-Line:**
- m-brief Plessy v. Ferguson
- m-brief Brown v. Board of Education (Brown I & II)
- w-brief Milliken v. Bradley
- f-brief Freeman v. Pitts
- f-brief Regents of California v. Bakke

#### Week 13 (Apr 17-23) -MOOT COURT WEEK!!!  ****ORAL ARGUMENTS****

Please see me immediately if this is impossible for you!

**MC:**
- w-final draft of moot court written brief due!

#### Week 14 (Apr 24-30)

**Lecture:** Social Change the Hard Way-When the Supreme Court Alters the Playing Field

**Readings:**
- O'Brien Chp. 12 (continued) "The Equal Protection of the Laws"

**On-Line:**
- m-brief U.S. v. Fordice
- m-brief Adarand Construction v. Pena
- w-brief City of Richmond v. J.A. Croson
- w-brief U.S. v. Virginia
- w-brief Craig v. Boren
- f-brief Romer v. Evans
- f-brief Plyler v. Doe

#### Week 15 (May 1-7) No Class Friday, May 6 for Reading Day

**Lecture:** The Future of Voting Rights

**On-Line:**
- m-brief Shaw v. Reno p. 891
- m-brief Buckley v. Valeo p. 925
- m-brief Hunt v. Cromartie p. 897
- w-brief Bush v. Gore p. 915

#### Week 16 (May 8-14) FINALS WEEK!!

*** FINALS (Final Exam--yeah)! ***

 Finals scheduled in accordance with University policy
- Monday, May 9 – Matthews Hall 311 – 1:30-3:30 PM.

I. Categories of Academic Dishonesty.
A. **Cheating.** The use of unauthorized assistance in an academic exercise, including but not limited to:
   1. use of any unauthorized assistance to take exams, tests, quizzes or other assessments;
   2. dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems or carrying out other assignments;
   3. acquisition, without permission, of tests, notes or other academic materials belonging to a faculty or staff member of the University;
   4. dual submission of a paper or project, or re-submission of a paper or project to a different class without express permission from the instructor;
   5. any other act designed to give a student an unfair advantage on an academic assignment.

B. **Plagiarism.** Use of another’s thoughts or words without proper attribution in any academic exercise, regardless of the student's intent, including but not limited to:
   1. the knowing or negligent use by paraphrase or direct quotation of the published or unpublished work of another person without full and clear acknowledgement or citation;
   2. the knowing or negligent unacknowledged use of materials prepared by another person or by an agency engaged in selling term papers or other academic materials.

C. **Forgery.** Altering a score, grade or official academic university record or forging the signature of an instructor or other student.

D. **Fabrication.** Falsifying or inventing any information, data or research as part of an academic exercise.

E. **Facilitating Academic Dishonesty.** Helping or assisting another in the commission of academic dishonesty.

F. **Sabotage.** Acting to prevent others from completing their work or willfully disrupting the academic work of others.

II. Available Academic Penalties
The following academic penalties may be assessed at the instructor’s discretion upon determination that academic dishonesty has occurred. Admonitions and educational assignments are not appealable.

A. **Admonition.** The student may be issued a verbal or written warning.

B. **Assignment of Educational Coursework.** The student may be required to perform additional coursework not required of other students in the specific course.

C. **Part. I or no credit for an assignment or assessment.** The instructor may award partial or no credit for the assignment or assessment on which the student engaged in academic dishonesty, to be calculated into the final course grade.

**University of North Texas- Statement of ADA Compliance**
The Political Science Department cooperates with the Office of Disability Accommodation to make reasonable accommodations for qualified students with disabilities. Please present your written accommodation request on or before the sixth class day (beginning of the second week of classes).
(Please print)  
Name: ________________________________  
e-mail account: ________________________

College Phone: (   )  
area code   number

Home Phone: (   )  
area code   number

If another student or faculty member requests your number, do I have your permission to provide this information?  
College    YES     NO  
Home       YES     NO

Year in school: _________________________

Transfer (if so, which school): _________________

Major: ________________________________

Minor: ________________________________

Other law related courses? (just list the general subject area and level)

Have you ever conducted legal research?  YES / NO  If yes, please indicate the extent of your ability.

Do you have access to the Web at home?  YES / NO  
For what do you typically use it?

Have you used WEBCT before? YES / NO

Do you have access to email at home? YES / NO

This certifies that I have read the syllabus and understand the requirements for the course, including the Policy on Cheating and Plagiarism.  I agree to abide by academic honesty.  As such, I verify that all work done in this class will be my own and that I will cite or quote sources when I draw from other authors’ material.  I understand that violating the policy will result in an automatic "F" for the course and referral to the Dean of Students for disciplinary proceedings.

Signature: ________________________________