SYLLLABUS

COURSE DESCRIPTION. This course is about the third branch of government--the judiciary--and is for those students who don’t know about the structure of the courts, what they do, and how they do it. We will examine the role of the courts as an institution in a democratic society, and also look at the interplay of the judiciary with the legislative and executive branches, as well as with external entities like business and the media. We will look at the theoretical underpinnings of our three branch system of government, examining the writings of Montesquieu, John Adams, Alexander Hamilton, John Locke, and James Madison. We will also discuss the concepts of separation of powers and of judicial review. And then we will look at the “reality” of government, and see how things actually work in the real world. A very important component of the course will be to meet with key players from all three branches, and to go on the road to see how government actually functions, by observing various processes of the branches unfold. One word of caution is that because this is the very first time that a course like this has ever been offered, some of this is aspirational and will be subject to the availability and inevitable last minute schedule changes of our invited guests.

But the goal of the course is clear, and that is to get students to examine and think about the judiciary. Most people don’t actually get into a court until they get called for jury duty or they are a party in a case. They see “The People’s Court” or “Judge Judy,” or “Judge Joe” and think that is what goes on in real life courts. Of course, that is not the case, and this course is intended to bring some transparency to the judiciary by exposing students to how the third branch of government really operates. We will look at how the judiciary is structured, and how a particular court fits into a broader network of courts to make up a legal system, and how the third branch of government works with the other two branches. And as part of that discussion we will explore whether the third branch is truly separate, independent and co-equal with the other two branches of government.

We have an impressive list of guest speakers, including the former Governor of Massachusetts, the Speaker of the House of Representatives, the Chief Justice of the Supreme Judicial Court, the Court Administrator for the Commonwealth of Massachusetts, the Chief Justice of the Trial Courts of Massachusetts, the Chief Justice of the Federal District Court of Massachusetts, a representative of the House Committees on Ways and Means, a multi-billion dollar business CEO, the former legal counsel, chief of staff for the Governor of Massachusetts, and former United States Senator, the former president of the Boston Bar Association, a large, influential bar association, and a representative of the media. We are scheduled to meet with the Speaker of the House of Representatives at the State House, and with the Chief Justice of the Supreme Judicial Court at the John Adams Courthouse.
Depending on our timing and how your schedules go, if we are lucky we might get to observe a budget hearing before the Joint Committee on Ways and Means in Gardner Auditorium; or talk to House and Senate members (and their support staff) about what goes into their decision making process when they create a budget for a state agency. Or perhaps we will watch a hearing on proposed legislation that will impact on current law; or we might follow a fiscal year budget from the governor's office in House 1, to the House budget, to the Senate budget, to the conference committee's joint budget, to the final budget. We might talk to a chief justice of a trial court department; or to a clerk of court; or a lobbyist; or a member of the Governor's Council, or to a bar association president; or a justice of an appellate court, or a trial court judge. We might visit different trial court departments within the state system, or visit the Federal courts here in Boston. One question we will ask all of our guest speakers is if they see a difference between a state agency and a separate, co-equal branch of government when they are creating a budget for the state. The ultimate goal would be to find out how each person we visit with sees their role as it fits into the bigger picture of how the three branches of government operate. The goal of the course is to demystify the process and make it more transparent as we try to understand how government really works.

This course is taught by Distinguished Professor Roderick Ireland, former Chief Justice of the Massachusetts Supreme Judicial Court, who was a judge for thirty seven years. As Chief Justice of the Supreme Judicial Court he interacted with both the Executive and Legislative branches on a daily basis, and became a student of the interrelations between the three branches. As the Chief Justice explains, he came to understand that even though the three branches of government are separate, independent and co-equal, they are also all interdependent and connected with each other. And for the third branch of government to perform its function properly, it must have the support and assistance of the other two branches of government. And without the support of the other two branches, the third branch will almost certainly be unable to provide the services that the public needs and expects in a timely, efficient and fair way.

TEXT. Because this course is based in large part on my personal experiences and relationships, in the first offering of this course we will not have a text but will develop one as the semester unfolds. I anticipate that during the semester we will read an assortment of articles and cases on the Third Branch.

REFERENCE AND RESOURCE MATERIALS. The writings of Montesquieu, John Adams, Alexander Hamilton, John Locke, and James Madison, the United States and Massachusetts Constitutions, as well as leading United States Supreme Court cases, Massachusetts Supreme Judicial Court cases, and newspaper articles, etc.

HANDOUTS. Additional materials will be distributed in class from time to time.

FORMAT. Class will include lectures, class discussion, special guest speakers, and field trips to The John Adams Courthouse and the State House.
**Class Attendance.** Regular attendance is expected. Our guest speakers will be making astute observations and insightful comments that you will not want to miss.

**Field Trips, Visits and Discussion with Representatives of the Three Branches of Government.** An important component of this course will be our discussions with legislative, judicial and executive branch leaders and our visits to the State House and the John Adams Courthouse. Students will have a unique opportunity to hear from executive, judicial and legislative leaders and to observe real life proceedings, such as a hearing before the Joint Committee on Ways and Means, that, while open to the public, most citizens never see. Our field trips will provide the experiential foundation upon which my lectures and your learning will be based. These visits will maximize and enhance your knowledge by bringing theory to life.

**Research Papers and Oral Presentations.** You will be required to write three research papers on topics related to the Third Branch.

The first paper will be on the origins of our three branch system of government and the role the third branch plays in relation to the other two branches of government; it should include a discussion of the writings of Montesquieu (The Spirit of the Laws), John Locke (Two Treatises of Government), John Adams (Thoughts on Government), Alexander Hamilton (The Federalist Papers), and James Madison (also The Federalist papers), as well as our system of checks and balances. It will be **due on February 17th**.

The second paper will be on the separation of powers and the concept of judicial review, and should include a discussion of Marbury v. Madison, and United States v. Nixon. It will be **due on March 17th**.

For the third and final research paper students will be required to attend a court of their choosing and give an in-class presentation of 15 to 20 minutes at the end of the semester on that court, i.e., what it does, what its jurisdiction is, the type of cases it hears, its budget, etc.) with the proviso that no two students can choose the same court. Fortunately, there are multiple courts in every community – trial, appellate, and specialty – a number of which are very close to the Northeastern campus, so students have a broad range of options. Students will have a memo from me that provides a framework for their observations and subsequent written research paper, and I will connect them to someone at each court who will be a resource to assist them. Note that because I do not allow the same court to be selected by more than one student, the sooner you claim your court, the better. Both the paper and the oral presentation will be **due on April 7th and April 14th**, depending on when you claim your topic. The oral presentations will be scheduled in the reverse order you claim your court. In other words, the first student to claim a topic will be the last student to present, and the last student to claim a topic will be the first person to give their presentation. Each paper should be based on scholarly research rather than just your opinion on the subject.
**Final Grade.** Your final grade will be based on your research papers and your oral presentation on your research paper. Also, final grades may be affected up to one full grade, up or down, based on your class participation.

**Office Hours.** I will be available thirty minutes before each class and after class, or by appointment at other mutually convenient times. My office is located in 401D Churchill Hall; my office phone is (617) 373-3304; and my e-mail is r.ireland@neu.edu. I welcome your calls.