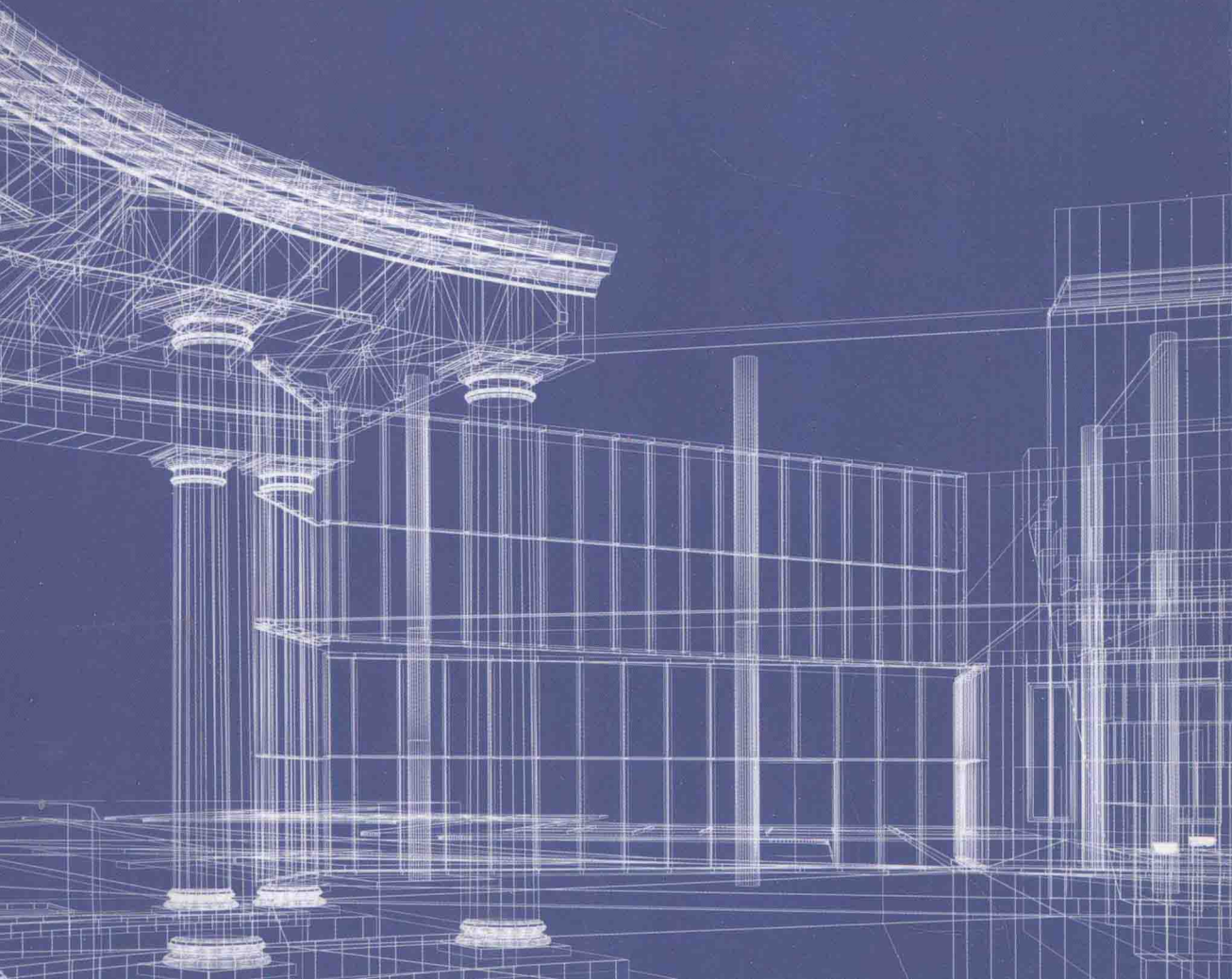


Seventh Edition

Judicial Process

Law, Courts, and Politics in the United States

David W. Neubauer
Stephen S. Meinhold



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To Carole and Jennifer



**Judicial Process: Law, Courts, and Politics
in the United States, Seventh Edition**

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Constitution, and other legal processes and institutions are all important matters that are carefully explained. To understand the legal system, however, students need to know more than just the formal rules. Also necessary is an understanding of the assumptions underlying these rules, the history of how they evolved, and the goals they seek to achieve. Moreover, we stress that the American judiciary is not monolithic. Rather, the judicial process consists of a number of separate, and often competing, units. Conflicts over the goals that these units are expected to achieve, in turn, influence how justice is dispensed.

Courts as Political Institutions

Many books leave the false impression that an understanding of the formal law and major court structures is all that one needs to know about the judicial process. This kind of approach provides only a limited view of the dynamics of how courts administer justice. In particular, it omits the key fact that courts often must make discretionary choices. The idea that the law is not self-executing is expressed in terms of the courts as political institutions. As the newly written first chapter emphasizes, the courts are best viewed in the same way as any other branch of government. As political scientists, we are not afraid to say that courts are political—and properly so. All too often, calls for removing judges and juries from politics amount to little more than attempts to capture these institutions by one set of political interests at the expense of others.

Topics in This Edition

This seventh edition covers both fundamental and up-to-date topics to emphasize the twin themes of courts as legal institutions and courts as political institutions.

New to This Edition

- Updated coverage of the impact of the war on terrorism on the U.S. legal system
- Comprehensive updates to all tables, graphs, and charts
- New material focusing on law, courts, and social media
- Updates on controversial U.S. Supreme Court decisions, including same-sex marriage
- Expanded coverage of the three female justices on the U.S. Supreme Court
- Updated content on comparative legal systems around the world
- New coverage concerning the legalization of marijuana for recreational use
- Continuing coverage of U.S. Supreme Court decision making and the Roberts Court

Focus on Fundamentals

Coverage of the essential structure and practices of the U.S. judiciary system remains thorough and complete and includes the following:

- Origins of U.S. law
- Institutions, consumers, and interpreters of law
- Federal and appellate court systems

- The complex structure of state courts
- Lawyers: their education and their role
- Selection and discretion of judges
- Steps in civil and criminal trials
- A close look at the Supreme Court

Key Features

To provide multiple perspectives on the complex issues of law and its administration, each chapter of *Judicial Process*, Seventh Edition, includes the following.

Case Close-Up

To highlight the importance of courts as legal institutions, each chapter contains at least one Case Close-Up. Many of the cases featured are landmark decisions of the U.S. Supreme Court; others are state or local cases chosen to illustrate key features of the impact of court decisions on American society. These discussions move beyond the dry legal prose to look at the people involved and what happened after their brief experience with the judiciary.

Debating Law, Courts, and Politics

To highlight the importance of courts as political institutions, the Debating Law, Courts, and Politics boxes engage students in a current debate about some aspect of the judicial process. (In earlier editions, this box was called Controversy.) Most of these Debating Law, Courts, and Politics boxes start with a question and end by asking for students' opinions. These boxes challenge readers to move beyond the immediate, sometimes emotional, aspect of an issue and probe more deeply into why people hold differing opinions about the question.

Courts in Comparative Perspective

To highlight the relationship between the judiciary and the societies served, each of the Courts in Comparative Perspective boxes focuses on some aspect of a legal system in another nation. Most students are familiar only with the way justice is dispensed in the United States, and are shocked to discover that justice systems in other countries operate very differently from ours. These boxes shape such amazement into a more comparative way of thinking.

Law and Courts in a Digital Age

These features focus on the growing impact of technology, social media, and the Internet on law and the courts. Technology is omnipresent in our lives and it creates both opportunities and challenges for all aspects of the legal system. For example, do the police need a search warrant to seize your cell phone? Should police wear body cameras? Boxes frequently end with several questions for discussion, to further stimulate critical thinking and student debate.

Pedagogical Innovations

Several pedagogical innovations anchor this edition to encourage active learning and deeper engagement with the text.

Critical Thinking Questions

Each chapter ends with Critical Thinking Questions, which ask students to pull material from the chapter together and apply key concepts to new material.

Web Resources

Students will find a lot of helpful guides to supplement their reading with online resources. The Internet is a major source of information, and the Web makes learning and exploring easier. Facts, figures, and opinions are readily available. Some Web pages, however, are little more than thinly veiled propaganda pieces, presenting the world from the vantage point of one interest group.

To encourage active, rather than passive, learning, each chapter contains several Web resources designed not only to sharpen students' Web skills, but also to further their understanding of concepts discussed in the chapter.

Glossary

Another key feature of this edition is the comprehensive glossary. More than just a compilation of the terms highlighted in boldface throughout the text, it also defines the most commonly used legal terms.

Key Developments

To provide a better sense of how the discussions in the chapters relate to material covered in other courses—such as constitutional law—several chapters contain features labeled “Key Developments,” which summarize the major legal developments concerning the topic at hand. We suggest that you use these as cross-references for other courses and also update the material when the Supreme Court hands down new decisions or Congress passes new laws.

Online Instructor Resources

An Instructor's Manual/Test Bank and book-specific PowerPoint lectures are available for instructors on Cengage's instructor companion website. The revised Instructor's Manual/Test Bank offers chapter key points, suggestions for class discussions, writing assignments, and exam questions to make course preparation easier. A set of book-specific PowerPoint lectures makes it easy for you to assemble, edit, publish, and present custom lectures for your course. The slides provide outlines specific to every chapter of *Judicial Process* 7E, and include tables, statistical charts, graphs, and photos from the book as well as outside sources. In addition, the slides are completely customizable for a powerful and personalized

presentation. The Instructor's Manual/Test Bank and PowerPoint lectures have all been updated with new material to reflect changes in the new edition. Access these instructor resources at www.cengage.com/login. Sign in to your existing Cengage account or register by clicking on "Create a New Faculty Account."

To the Students

This book is written with you in mind. Over the years, our students have helped us evaluate a variety of topics and approaches, and the best of what works is used in this book. A spiral approach—beginning from a core of information and working outward to cover a wider range of relevant perspectives—allows you to start with the people who sparked a case and expand your view to the broader issues involved.

Our major objective is to demystify law, courts, and politics in the United States. We have found that people often approach the law as an ideal system that is set apart from the rest of society. In fact, courts do not stand in silent isolation, somehow removed from the communities they serve. Law and courts are at the core of how our nation governs itself.

This is not to suggest that the judicial process in the United States is perfect—far from it. But when people begin to discuss what needs to be changed, they often disagree; these disagreements often reflect political, social, and economic divisions in our society.

The Seventh Edition contains several special features that will help make this introduction to the judicial process more informative, more enjoyable, and more relevant for you:

- *Case Close-Up* These highlight important decisions—of the Supreme Court and of state or local courts—that illustrate the impact courts have on our everyday lives. In addition to the case history itself, each chapter looks closely at the people involved and what happened to them after their brief experience with the judicial system.
- *Debating Law, Courts, and Politics* These items analyze current debates about some aspect of the judicial process to help you look beyond the emotional aspects of an issue to the deeper reasons people disagree. They all start with a question and end by asking your opinion: What do your answers suggest about you as a person?
- *Courts in Comparative Perspective* These presentations help you discover what is unique about the U.S. courts by comparing them with other nations' systems.
- *Law and Courts in a Digital Age* These boxes focus on legal issues related to technology, the Internet, and social media.

Other Helpful Features

Critical Thinking Questions Each chapter ends with a set of critical thinking questions to integrate material from the chapter and to help you consider what you are reading and relate it to your own experiences. Contrast how the concepts presented in the book relate to recent events.

Glossary The basic terminology of law, courts, and politics is explained throughout this book. Typically, the language of the law strikes students as both foreign and familiar. Some of our legal terms are indeed foreign because they are derived from Latin and French. But, with a little guidance, these "foreign" terms are readily understandable. Important terms are set in **boldface type**, and these terms are collected with their definitions in the Glossary.

Indexes To help locate important topics, this book contains a detailed Subject Index, including authors and subjects, and a separate Case Index of court decisions discussed in the text. By studying the U.S. judicial process, you explore one of the most important aspects of our society—and ourselves.

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