

# FEDERAL & STATE POLICYMAKING

Department of Political Science

Kent State University

Spring 2018

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Professor: Christopher P. Banks  
Course No.: POL 6/70105-001  
Class Time: Thursday, 2:15 to 5:15 p.m.  
Classroom: Bowman 311

Office Hours and Location:  
• Bowman 302-41  
• M 10:30 am to 3:30 p.m.  
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**COURSE DESCRIPTION:** This course covers the theory and practice of federalism with emphasis on its consequences for policy outcomes. Students also examine the transformation of the policy role of state governments in relation to the national government. We study these perspectives through a lens of American Political Development, an academic sub-discipline in political science that has gained substantial traction and salience in recent years. After tracing federalism's historical origins and its political implications, the resurgence of states' rights and sovereignty contemporary policymaking arguments are studied through a "new federalism" paradigm that took hold as a political challenge to New Deal centralization in the post-Nixon administration years. Thereafter, specific illustrations of contemporary applications of federal and state policymaking initiatives and responses are considered in several realms of policy, including health care, gun rights, marijuana regulation, immigration, and national security policymaking.

**COURSE LEARNING OUTCOMES & EXPECTATIONS:** Primary course goals include achieving an understanding of American federalism's origins, structure, and policymaking implications in the context of American political development; to analyze the prevailing literature on federalism and policymaking in order to assess current academic debates and research trends within the field and subject area; and to improve the analytical and research skills of graduate students interested in federalism and policymaking in order to provide a basis for creating and publishing academic conference papers or journal publications.

## REQUIRED TEXTS:

1. Orren and Skowronek, *The Search for American Political Development* (Cambridge, 2004)
2. Robertson, *Federalism and the Making of America*, 2<sup>nd</sup> ed. (Routledge, 2017)
3. *The Federalism Papers*, edited by Shapiro (Yale, 2009)
4. Banks and Blakeman, *The U.S. Supreme Court and New Federalism: From the Rehnquist to the Roberts Court* (Roman & Littlefield, 2012)

**ACCESSING OTHER ASSIGNED/RECOMMENDED READINGS.** Other required and/or recommended are listed under the listing of course readings and schedule of assignments. They are available in Learn

and/or through the Internet, as noted. Many are available under JSTOR or other KentLink journal databases.

**BLACKBOARD LEARN:** The class is enhanced by *Blackboard Learn* (accessible through [Flashline](#)). The syllabus is reproduced and accessible on that link. It is the student's responsibility to submit all written assignments (and take quizzes, see below) through *Blackboard Learn*. Each student should make it a daily habit to access the site to receive timely posts or messages about the course and/or to complete assigned work. If you are working from home on your computer, and you wish to access campus library materials, it is advisable you do so by using [Kent State's Proxy](#) (which allows you to get a secured link from your remote/home computer to campus resources). The [Technology Help Center](#) link is available at the same hyperlink.

**COURSE FORMAT & REQUIREMENTS:** This class is a seminar, not a lecture. Class will begin with a short introduction to the week's topic; then the class will discuss and critique the reading materials. The assigned readings must be completed *prior* to the seminar meeting to discuss the content of the readings with the instructor and classmates. Attendance is mandatory. All course requirements must be completed for course credit.

**ATTENDANCE POLICY:** One grading weight is the frequency of attendance. Attendance is mandatory. The University's attendance policy is found [here](#).

**EXCUSED ABSENCES, MAKE-UP EXAMINATIONS & TARDY OR MISSING WORK:** Taking a make-up exam, or being excused from an absence or any other assigned work, is up to the professor's discretion. Generally, they will not be permitted *unless* the student reasonably informs the professor (either in advance or shortly thereafter, i.e. typically the day of the test or perhaps the next day) of a medical or family emergency, or some other unforeseen exigency, that prevents the student from attending class, taking the test on the exam date and/or submitting the work on a timely basis. Emergencies that are *not* medically or immediate family-related (e.g. those involving your academic workload, outside [the classroom] work schedule problems, car problems, boy/girlfriend, best friends, family friends, or roommate problems) are not usually adequate justifications for taking make up exams. Students asking for an excused absence, late submission of work, and/or a make-up test *must* have written verification of the emergency *as a necessary condition for being granted an excused absence, extension to complete assigned work, or taking a make-up exam*. Simply alerting the professor (and/or the T.A.) of the reason for the absence, missed exam and/or late work, without the written verification, will not be counted as an "excuse."

#### **GRADING WEIGHTS:**

- **ATTENDANCE AND SEMINAR PARTICIPATION (30%).** Performance on both criteria will be measured weekly considering class attendance, preparation and knowledge of the week's readings, and active participation in the class discussion. It is highly recommended that you read the assigned

readings thoughtfully and critically, and to prepare written notes in advance of class for conveying your insights about the material during class discussion. The quality of your notes and advanced preparation will allow you to make frequent thoughtful contributions to the seminar discussions and they will facilitate or encourage critical commentary among your peers about the assigned readings.

• **JOURNAL ARTICLE CRITIQUES (30%).** Each student must discover, read, and then complete a written critique of a relevant, peer-reviewed journal article that pertains to that week's reading, but which is not listed on the course schedule and assignments' section of the syllabus. The focus of discovering relevant journal articles appears in parentheses, under the relevant weekly assignment: thus, after reading the assigned material for that week, students must then find articles on the specific topics listed in the parentheses and connect them to the required readings for that week. Five weekly critiques are scheduled, but students are required only to complete four critiques for course credit (a fifth may be completed as well, but the highest grade of four critiques will be used in grading). The critique consists of writing a 3 to 5-page, double-spaced essay that is properly cited and formatted to American Political Science style. The critique must evaluate a peer-reviewed journal article that has been published in the past three years; and the article critiqued must directly relate to the topic in parentheses pertaining to that week's reading assignments. The written critique and the seminar discussion it generates must analyze the article's content by critiquing its substance, research goals and design, hypotheses, methods, and findings. **The written critique is due (along with a pdf. copy of the article that you critique) the day before class at noon and both the critique and article must be distributed to all seminar participants beforehand (submit your critique in Learn and email one copy to your colleagues).** Late submissions will be heavily penalized.

- + While not an exhaustive list, in addition to the main national and regional political science journals (*American Political Science Review*, *Journal of Politics*; *Political Research Quarterly*; *American Journal of Political Science*), federalism, public administration, law or policy-related journals include *Publius: The Journal of Federalism*; *Studies in American Political Development*; *Constitutional Political Economy*; *American Politics Research*; *Law and Society Review*; *Review of Politics*; *American Political Thought*; *Studies in Law, Politics, and Society*; *Annals of the American Academy of Political and Social Science*; *Public Choice*; *Policy Sciences*; *American Review of Public Administration*; *Politics & Policy*; *Policy Study Journal*.
- + While not always definitive, on the KentLink webpage, under the University Libraries>LibGuides>Alphabetical List of Databases tab/s, [Ulrich's Periodical Directory](#) allows you to confirm if you are reviewing a peer-reviewed journal article. Confirmation of peer-review status may be necessary if the publisher's website does not indicate status; also, many journals in terrorism-research are inter-disciplinary, and some are law-based. Law-based journal articles include law reviews, and *many law reviews are not peer-reviewed*.

• **BOOK REVIEW (20%):** Each student is assigned one book that is **not** in the required readings to review; the book assigned is listed under that week's assignments. The written essay must be 6-8

pages, double-spaced, and properly cited to American Political Science Association Style; and it must be formatted after the reviews found in *Perspectives of Politics* (the successor to the book review section in the *American Political Science Review*). The written component must be accompanied by a brief oral presentation in class (approximately 5 minutes) that introduces the book analysis to the class, and it must explain how the book connects to the assigned readings for that section of the course (e.g. Theoretical Perspectives/Approaches; New Federalism Politics; and Policy Applications). The book review must not be a book summary; rather, it must be an analysis and critique of the strengths and weaknesses of the book, focusing on issues such as whether the book advances theory, or the literature; whether it was constrained by limitations (of methods, data, and the like); and, what new directions in future research should take considering the book's findings and its relationship to the assigned readings. Many of the books listed in the bibliography have been reviewed in journals or elsewhere; it is *required* that you do not read them either before you finish reading the book, or in preparing your book review. *Violations for plagiarism will be vigorously enforced* (see the syllabus section on plagiarism).

⇒ Students will be randomly assigned these books to review:

1. Choper, *Judicial Review and the National Political Process* (University of Chicago Press, 1980)
2. Derthick and Quirk, *Politics of Deregulation* (Brookings Institution, 1985)
3. Nugent, *Safeguarding Federalism: How States Protect Their Interests in National Policymaking* (University of Oklahoma Press, 2009)
4. Nolette, *Federalism on Trial: State Attorneys General and National Policymaking in Contemporary America* (University Press of Kansas, 2015)
5. Purcell, *Originalism, Federalism, and the American Constitutional Enterprise: A Historical Inquiry* (Yale University Press, 2007)
6. Rubin and Feeley, *Federalism: Political Identity and Tragic Compromise* (University of Michigan Press, 2008)
7. Shapiro, *Polyphonic Federalism: Toward the Protection of Fundamental Rights* (University of Chicago Press, 2009)

• **FINAL EXAMINATION (20%):** A week before the course ends students are given three questions to answer as part of a final examination that mimics what you can expect in a comprehensive field exam or thesis presentation in graduate study. The answers are completed individually (no group participation is permitted), in a take-home, open-book format, using only the readings identified on the syllabus. The exam's answers must be properly cited to the American Political Science style, and include in-text references, plus a separate bibliography. Questions will address major topics covered in the course and the exam format will resemble potential comprehensive exam questions in the American Politics and Policy doctoral track. Additional details will be provided in class.

**GRADING SCALE:** A total of 100 possible points can be earned for all course work. Letter grades are as follows: A (93-100 points); A- (90-92 points); B+ (87-89 points); B (83-86 points); B- (80-82 points); C+ (77-79 points); C (73-76 points); C- (70-72 points); D+ (67-69); D (60-66 points); and, F (0-59 points).

**WRITING & CITATION STYLES:** Kent State offers writing instruction and help through its [Writing Commons facility](#). It is strongly recommended that students take advantage of refining their writing skills through the Writing Commons, which offers in-person and online help. Relative to citation styles used in political science, the most recent [American Political Science Association](#) (APSA) Style Manual (2006) asks writers to use the parenthetical documentation system in the Chicago Manual of Style (the [author-date](#), not the note system, used in the social sciences like political science) for documentation in political science writing. For a brief overview, see pages 17 and pages thereafter in the [APSA manual](#). For a review of sample citations that use the parenthetical documentation using the APSA/Chicago author-date system, consult the [Chicago-Style Citation Quick Guide](#) (be sure to click on the author-date, not the notes and bibliography, tab). All written assignments must be cited in APSA/Chicago Manual of Style format. Explanations and examples of how to do that are outlined in this paragraph (see the relevant hyperlinks) and in KentLink's [Citation Tools](#).

- **IMPORTANT NOTE:** KentLink's Citation Tools has a link to [Citation Generators](#), which are links to *free* web tools that assist users in creating citations in many different styles, including APSA/Chicago. An additional citation tool is the [Citation Machine site for APSA/Chicago](#) format.

**ACADEMIC DISHONESTY, PLAGIARISM AND CHEATING POLICIES:** Academic dishonesty, cheating, and plagiarism will not be tolerated in this class. Students must perform their academic work according to standards set by faculty members, departments, schools and colleges of the university; and cheating and/or plagiarism constitute fraudulent misrepresentation for which no credit can be given and for which appropriate sanctions are warranted and will be applied. The Kent State link to plagiarism information/policies is found [here](#).

- **IMPORTANT NOTE:** All written assignments and submissions are checked for plagiarism using **SafeAssign**, a plagiarism detection program in Learn. This software detects the use of information taken without proper attribution from Internet websites and other sources.

**ENROLLMENT/OFFICIAL REGISTRATION.** Every class has its own schedule of deadlines and considerations. To view the add/drop schedule and other important dates for this class, go to **Student -> Resources -> Courses and Registration in FlashLine**. Choose **View or Print Course Schedule and Purchase Textbooks**. To see the deadlines for this course, click on the CRN. The add/drop schedule and important dates may also be found on the **Drop or Add a Course** link. Click on the green clock next to the course under **Registration Deadlines**. For your convenience and quick reference, please see the [Academic Calendar](#) and the [Registrar's List of Important Dates for Spring 2018](#).

**IMPORTANT STUDENT DATES AND FINAL EXAM SCHEDULE.** Key deadlines and information about late fees, and other consequences pertaining to important student dates, are found [here](#). The final examination schedule is located [here](#).

**STUDENT SUPPORT & WRITING COMMONS:** If you are struggling academically and/or need assistance that the professor cannot provide (even if you are not struggling), it is strongly advised to consult with the [Academic Success Center](#). Located on the Kent Campus in the Center for Undergraduate Excellence, the Academic Success Center, provides free tutoring, academic coaching, and study skills refinement. In addition, the center's Supplemental Instruction provides study groups that allow students to practice effective study strategies and prepare for exams. The [Kent State Writing Commons](#) is also a valuable resource to improve writing performance and it is often wise to schedule an appointment to refine your writing skills in doing the assigned work.

**STUDENT ACCESSIBILITY:** University policy 3-01.3 requires students with disabilities to be provided reasonable accommodations to ensure their equal access to course content. If you have a documented disability and require accommodations, please contact the professor at the beginning of the semester to make arrangements for necessary classroom adjustments. Please note, you must first verify your eligibility for these through [Student Accessibility Services](#) (or, contact 330-672-3391 for more information on registration procedures).

**NOTICE OF PROFESSOR BANKS' COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS.** Any intellectual property conveyed (including oral communications), displayed, or distributed to students during this course (including, but not limited to, PowerPoints, syllabus, handouts, test preparation materials, notes, data, quizzes, examinations) by the professor *remains* the intellectual property of the professor. This means that the student *may not* distribute, publish or provide such intellectual property to any other person or entity for any reason, commercial or otherwise, without the express written permission of the professor. Violations will be aggressively pursued by appropriate legal measures.

## COURSE SCHEDULE & ASSIGNMENTS

### I. Theoretical Perspectives & Methodological Approaches

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|----------|---|---|
| Jan 18   | Introduction                                |   |
| Jan 25   | Federalism & American Political Development | <ul style="list-style-type: none"> <li>• Robertson, Chapter 1</li> <li>• Orren &amp; Skowronek, Chapters 1-5</li> </ul>   |
| Feb 1, 8 | Federalism at the Founding                  | <ul style="list-style-type: none"> <li>• Feb. 1:               <ul style="list-style-type: none"> <li>– Robertson, Chapter 2</li> <li>– Shapiro, Introduction</li> <li>– Shapiro, Articles of Confederation</li> <li>– Shapiro, Federalist Nos. 1, 6-8, 14-22</li> </ul> </li> <li>• Feb. 8:               <ul style="list-style-type: none"> <li>– Shapiro, The U.S. Constitution</li> <li>– Shapiro, Federalist Nos. 37, 39, 41-46, 84-85</li> <li>– Shapiro, Amendments (to U.S. Constitution)</li> <li>– Shapiro, Dunn, Horowitz and Hunt Botting essays</li> </ul> </li> </ul> |

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| Feb 15 | Federalism Theory & Practice | <ul style="list-style-type: none"> <li>• Diamond, “What the Framers Meant by Federalism” (ER)</li> <li>• <a href="#">Beer, “The Modernization of American Federalism” <i>Publius: The Journal of Federalism</i> 3 (Fall, 1973): 49-95 (Learn)</a></li> <li>• <a href="#">Bestor, “The American Civil War as a Constitutional Crisis” <i>American Historical Review</i> 69 (January 1964): 327-352 (Learn)</a></li> <li>• Robertson, Chapter 4</li> <li>• <a href="#">Prigg v. Pennsylvania, 41 U.S. 539 (1842)</a></li> <li>• <a href="#">Brown v. Board of Education (1954)</a></li> </ul> <p>• <b>Journal Article Presentation &amp; Critique (1) Due</b></p> |
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## II. Federalism, New Federalism & Public Policy

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| Feb 22  | The Politics & Policy of New Federalism       | <ul style="list-style-type: none"> <li>• Banks &amp; Blakeman, Chapters 1-2, 3 (pp. 67-78)</li> <li>• Editor. “Editor’s Introduction.” <i>Publius: The Journal of Federalism</i>. 2 (Spring 1972): 95-97 (Learn).</li> <li>• Publius. “New Federalist Paper no. 1.” <i>Publius: The Journal of Federalism</i>. 2 (Spring 1972): 98-115 (Learn).</li> <li>• Cato. “Federalism: Old and New.” <i>Publius: The Journal of Federalism</i>. 2 (Spring 1972): 116-131 (Learn).</li> <li>• Althusius. “New Federalist no. 3.” <i>Publius: The Journal of Federalism</i>. 2 (Spring 1972): 132-137 (Learn).</li> <li>• Polybius. “In Support of Strengthening the American Federal System.” <i>Publius: The Journal of Federalism</i>. 2 (Spring 1972): 138-146 (Learn).</li> </ul> <p><b>Journal Article Presentation &amp; Critique (2) Due</b></p> |
| Mar 1,8 | The Rehnquist Court New Federalism Revolution | <ul style="list-style-type: none"> <li>• Mar. 1: <ul style="list-style-type: none"> <li>– Banks &amp; Blakeman, Chapter 3 (pp. 78-87)</li> <li>– <a href="#">Fry v. U.S. (1975)</a> (Focus on J. Rehnquist’s Dissent)(Learn)</li> <li>– <a href="#">National League of Cities v. Usery</a> (1976) (Learn)</li> <li>– <a href="#">U.S. v. Lopez</a> (1995)(Learn)</li> <li>– Calabresi, “Federalism and the Rehnquist Court: A Normative Defense.” <i>Annals</i> 574 (March, 2001): 24-36 (Learn)</li> </ul> </li> </ul> <p><b>Book Reviews:</b></p> <ul style="list-style-type: none"> <li>• Choper, <i>Judicial Review and the National</i></li> </ul>   |



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|        |   | <p><u>Political Process</u> (University of Chicago Press, 1980)</p> <ul style="list-style-type: none"> <li>• Derthick and Quirk, <u>Politics of Deregulation</u> (Brookings Institution, 1985)</li> </ul> <p>• Mar. 8:</p> <ul style="list-style-type: none"> <li>– Banks &amp; Blakeman, Chapter 3 (pp. 87-118)</li> <li>– Wechsler, “The Political Safeguards of Federalism.” <i>Columbia Law Review</i> 54 (1954): 543-560 (Learn)</li> <li>– <a href="#"><u>Garcia v. San Antonio Metropolitan Transit Authority</u></a> (1985)(Learn)</li> <li>– Schwartz, “The Supreme Court’s Federalism: Fig Leaf for Conservatives.” <i>Annals</i> 574 (March, 2001): 119-131 (Learn).</li> </ul> |
| Mar 15 | The Roberts Court, New Federalism and Contemporary Issues | <ul style="list-style-type: none"> <li>• Banks &amp; Blakeman, Chapters 5, 6 and Postscript</li> <li>• Ilya Somin, “Federalism and the Roberts Court,” <i>Publius: The Journal of Federalism</i>. 46 (July, 2016):441-462 (Learn)</li> </ul> <p><b>Book Reviews</b></p> <ul style="list-style-type: none"> <li>• Nugent, <u>Safeguarding Federalism: How States Protect Their Interests in National Policymaking</u> (University of Oklahoma Press, 2009)</li> <li>• Nolette, <u>Federalism on Trial: State Attorneys General and National Policymaking in Contemporary America</u> (University Press of Kansas, 2015)</li> </ul>  |

### III. Federalism, Federal & State Policymaking

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| Mar 22 | The State of American Federalism Today | <ul style="list-style-type: none"> <li>• Goelzhauser and Rose. “The State of American Federalism 2016-2017: Policy Reversals and Partisan Perspectives on Intergovernmental Relations.” <i>Publius: The Journal of Federalism</i>. 47 (2017): 285-313 (Learn).</li> <li>• Jacobs, “An Experimental Test of How Americans Think about Federalism,” <i>Publius: The Journal of Federalism</i>. 47 (October, 2017): 572-598 (Learn).</li> <li>• Einstein and Glick, “Cities in American Federalism: Evidence on State–Local Government Conflict from a Survey of Mayors,” <i>Publius: The Journal of Federalism</i>. 47 (October 2017): 599–621 (Learn).</li> </ul> <p><b>Book Reviews:</b></p> |
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|        |                                    | <ul style="list-style-type: none"> <li>• Purcell, <u>Originalism, Federalism, and the American Constitutional Enterprise: A Historical Inquiry</u> (Yale University Press, 2007)</li> <li>• Rubin and Feeley, <u>Federalism: Political Identity and Tragic Compromise</u> (University of Michigan Press, 2008)</li> <li>• Shapiro, <u>Polyphonic Federalism: Toward the Protection of Fundamental Rights</u> (University of Chicago Press, 2009)</li> </ul>   |
| Mar 29 | Spring Break                       | No Class  |
| Ap 5   | Health Care & Environmental Policy | <ul style="list-style-type: none"> <li>• Robertson, Chapter 8, 9</li> <li>• Clinton and Sances, “The Politics of Policy: The Initial Mass Political Effects of Medicaid Expansion in the States,” <i>American Political Science Review</i>. 112 (No. 1, 2018): 167-185 (Learn).</li> <li>• Rigby and Haselswerdt, “Hybrid Federalism, Partisan Politics, and Early Implementation of State Health Insurance Exchanges,” <i>Publius: The Journal of Federalism</i> 43 (3, July 2013): 368-391 (Learn)</li> <li>• Scheberle, “The Evolving Matrix of Environmental Federalism and Intergovernmental Relationships,” <i>Publius: The Journal of Federalism</i>. 35 (No. 1, 2005): 69-86 (Learn)</li> <li>• Arnold and Holahan, “The Federalism of Fracking: How the Locus of Policy-Making Authority Affects Civic Engagement,” <i>Publius: The Journal of Federalism</i>. 44 (No. 2, April 2014): 344-368 (Learn).</li> <li>• Engel, “EPA’s Clean Power Plan: An Emerging New Cooperative Federalism?” <i>Publius: The Journal of Federalism</i>. 45 (No. 3, July 2015): 452-474 (Learn)</li> </ul> <p><b>Journal Article Presentation &amp; Critique (3) Due</b></p> |
| Ap 12  | Marijuana & Immigration Policy     | <ul style="list-style-type: none"> <li>• Robertson, Chapter 5 (skim), Chapter 6 (skim), 10</li> <li>• Pickerill and Chen, “Medical Marijuana Policy and the Virtues of Federalism,” <i>Publius: The Journal of Federalism</i> 38 (No. 1, 2008): 22-55.</li> <li>• Kamin, “The Battle of the Bulge: The Surprising Last Stand Against State Marijuana Legalization,” <i>Publius: The Journal of Federalism</i> 45 (No. 3, 2015): 427-451</li> <li>• Newton and Adams, “State Immigration Policies: Innovation, Cooperation, or Conflict?” <i>Publius: The Journal of Federalism</i>. 39 (No. 3, 2009): 408-431 (Learn).</li> <li>• Reich and Barth, “Immigration Restriction in the States: Contesting the Boundaries of Federalism?” <i>Publius: The Journal of Federalism</i>. 42 (July, 2012):</li> </ul>   |

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|-------|--------------------------|---|
|       |                          | 422-448 (Learn).  |
|       |                          | <b>Journal Article Presentation &amp; Critique (4) Due</b>  |
| Ap 19 | National Security Policy | <ul style="list-style-type: none"> <li>• Comfort, “Managing Intergovernmental Responses to Terrorism and Other Extreme Events?” <i>Publius: The Journal of Federalism</i>. 32 (No. 4, 2002): 29-50 (Learn).</li> <li>• Donohue and Kayyem, “Federalism and the Battle over Counterterrorism Law: State Sovereignty, Criminal Law Enforcement, and National Security,” <i>Studies in Conflict and Terrorism</i>. 25 (2002): 1-18 (Learn).</li> <li>• Waxman, “National Security Federalism in the Age of Terror,” <i>Stanford Law Review</i>. 64 (February, 2012): 289-350 (Learn).</li> <li>• Trump, Executive Proclamation 9645 (Learn)</li> </ul> |
|       |                          | <b>Journal Article Presentation &amp; Critique (5) Due</b>  |
| Ap 26 | Review Session           | Final Exam Questions Distributed  |
| May 3 | Final Exam Preparation   | No Class-Study & Prepare Final Exam Answers   |
| May 7 | Final Exam               | Due in Learn before 3:00 pm   |