Appellate Courts: The Process
distinguish function of trial and appellate courts
purpose of appeal
trial disputes: facts, law, or mixed
introduction of facts at trial
appeals are only on procedural and legal issues
rights at trial: due process; trial by jury; speedy and public trial; right to counsel; securing and confronting witnesses.
error correction
distinction b/w courts with mandatory and discretionary jurisdiction
stages of appellate court procedures and process
appellant/appellee; petitioner/respondent
effect of rising caseloads on appellate courts
screening cases
full or limited treatment
routine disposition method
publishing/not publishing decisions
effect of ideology on routine or trivial cases
types of cases that are routine
most appeals are affirmed; is appealing worth it?
Supreme Court’s reversal rate in comparison to other appellate courts
accept a case on cert, then tendency to reverse

Appellate Courts: Policy and Impact
direct/indirect judicial policy making
other branches “punt” tough issues to the courts
concern about the court’s legitimacy
countermajoritarian behavior
legitimacy/appropriateness of judicial policy making: permitted by the Constitution?
judicial review
tyranny of the majority
Constitution as a minority-based document, with courts designed to protect minorities
implicit noncompliance
limits on judicial policy making: judges’ role perceptions; other branches of government (judicial review of state/congressional laws); constitutional amendments; appointment process; compliance concerns
courts as effective policy makers?: can’t choose their cases, can’t control timing of decisions, generalists, not specialists; unique cases; litigation probably not representative of population
impact of judicial policy making on society
courts as leaders or followers of national trends
United States Supreme Court

Supreme Court process
agenda setting
in forma pauperis
discretionary jurisdiction
process of case selection
writ of certiorari
discuss list
rule of four
effect of denial of cert
criteria for case selection
process after granting cert
briefs filed, including amicus curiae briefs
oral argument (timing and purpose)
decision making
vote in conference
opinion assignment
concerns of opinion assignor and author of
  majority opinion
drafts of majority opinion
judicial fluidity
promulgating decisions
eras of the Supreme Court: pre-Civil War
  amendments; post-Civil War
  amendments; New Deal era; Modern
era
what is each era defined by?
what cases are found in each era?
is Modern era a distinct era from New Deal
  era?
judges roles vs. ideology
stability of judicial preferences
opportunity for change in collective ideology
quick change or institutional inertia?
how does role constrain ideology?
tradeoff b/w role and ideology
effect of role/ideology on judicial hierarchy
judicial decision making on the Supreme
  Court
expectations of fairness and neutrality
purpose of mythical view of judges
legal model vs. attitudinal model
attitudinal model most applicable at
Supreme Court, legal model more
applicable at other courts, due to
institutional differences between
courts
aspects of legal model: precedent/stare
decisis; original intent; judicial
restraint; plain meaning/strict
construction
problems with each aspect of the legal
  model
why does attitudinal model apply?
where and when is attitudinal model most
  applicable?

General Thoughts:
Exam #3 takes place the last day of class, on Wednesday, June 28. This exam will be very
similar to the prior exams, as the format will be part multiple choice and part short answers and
essays. So, bring a pencil (and eraser) to fill in the multiple choice grading sheet, and bring
a Blue Book for the short answers and essays. As was the case with the prior exams, you are
responsible for any material we discussed in class along with the material presented in the
required readings, even if we did not discuss those readings in class.