

**2011 We the People Annual Summer Institute  
Balancing Powers: What Is the Role of the Courts?**

**Thursday, June 9 (Location: Sturm Hall, Room 480)**

**8:00**    *Introductions, Welcome, Small-Group Activity*

**8:30**    *We the People Simulated Congressional Hearing Presentation by East High School Students*  
Following the presentation, participants will have an opportunity to discuss the hearing experience and preparation with students and a panel coach.

**9:00**    *WTP Hearing Questions on Judicial Branch*  
Participants will display their knowledge of the judiciary in the WTP culminating activity: a simulated congressional hearing. Participants serve as expert witnesses and provide testimony on one of the 2011 WTP hearing questions selected for the institute.

**9:15**    *Judicial Review: The Stolen Valor Act*  
Signed into law in 2006 by President Bush, the Stolen Valor Act makes it a federal misdemeanor to falsely represent oneself as having received any U.S. military decoration or medal. A federal judge ruled the law violated the First Amendment. The case is now on appeal to the 10th Circuit; some legal scholars have predicted this law will reach the U.S. Supreme Court. Participants will examine arguments on both sides of the case using a moot court strategy.

Presenters: Barbara Costa and Dean Sanderford, Attorneys, Office of the Federal Public Defender

**10:45**   *Break*

**11:00**   *Concurrent Sessions*

(1) For New WTP Teachers: Introducing the WTP Textbook  
The We the People textbooks are designed for a wide range of student abilities and may be used as supplements or for a full course of study. Teachers will participate in a small-group activity to examine one of the six units in the WTP textbook.

Presenters: Lori Mable, Thunder Ridge Middle School; Chris Elnicki, Cherry Creek Schools; and Kathy Switzer, University of Northern Colorado

(2) For Veteran WTP Teachers: Demonstration Lesson—Sweet Sixteen, Elite Eight, and The Final Four  
Adam Liptak, *New York Times* Supreme Court reporter, takes a unique view of major Supreme Court decisions that have had a lasting impact on our society. He has granted permission for us to use his bracket activity in the classroom.

Presenter: Victoria Bull, Northglenn High School

**11:30**   *First Amendment Rights in Perspective*

Speaker: The Honorable Peter Ney, Senior Judge, Colorado Court of Appeals and author, *Getting Here: From a Seat on the Train to a Seat on the Bench*.

**12:30**   *Lunch and Remarks about “Courts in the Classroom”*

Speaker: Jon Sarche, Public Information Coordinator, Colorado State Court Administrator's Office

**1:30 Granting Cert – Deciding to Decide: Lesson Demonstration**

A minimum of four of the nine Supreme Court Justices are required to grant a writ of certiorari, referred to as the “rule of four.” The court denies the vast majority of petitions and thus leaves the decision of the lower court to stand without review; it takes roughly 80 to 150 cases each term.

Presenters: Jerry Borison, Professor, University of Denver Sturm College of Law, and Edna Sutton, Denver School for Science and Technology

**2:45 Meetings in WTP Mentor Groups**

**3:45 Credit and Course Registration: Loyal Darr, WTP Coordinator, Congressional District #1**

**Friday, June 10 (Location: Sturm Hall, Room 480)**

**8:00 Recipe for Good We the People Hearings**

**8:15 New Teaching Materials on the Supreme Court from Street Law**

Sarah Edson, Esq., Special Assistant to the President, Mullen High School, Denver

**9:30 Citizens United and Its Implications for Campaign Finance Reform and the First Amendment**

In *Citizens United v. Federal Election Commission*, the Supreme Court struck down restrictions on corporations’ ability to spend money on advertisements and other communications endorsing or opposing political candidates. The Court’s divided opinion mirrors disagreements among policymakers and the general public about how speech and politics actually work – or should work. The presentation will explore these tensions, which include disagreements over whether limitations on the quantity of campaign speech can ever further First Amendment values by improving the quality of the remaining speech (or whether instead more speech is always better), as well as disagreements over the meaning of political corruption and whether corporate campaign speech poses any significant danger of such corruption.

Presenter: Helen Norton, Associate Professor of Law, University of Colorado Law School

**10:45 Break**

**11:00 Taking the Citizens United Case into the Classroom**

Working in small groups, teachers will participate in a structured academic controversy discussion in which they will identify the arguments of both sides of the case and consider the deliberation question, “Should our democracy protect the speech of corporations?”

Presenter: Suzanne deLemos, Mountain Range High School

**12:30 Lunch and Informal Remarks from Colorado Supreme Court Chief Justice Michael Bender**

Chief Justice Bender will speak about the purpose and design of the interactive learning center located in the new justice center, officially called the Ralph Carr Judicial Complex.

**1:30 Prepare for WTP Culminating Activity**

**2:30 Simulated Congressional Hearings /Debriefing the Hearings**

**3:45 Evaluation, Certificates, Adjourn**

## 2011 We the People Institute Hearing Questions

1. Although the Constitution does not explicitly mention the power of judicial review, the Supreme Court has exercised this power for two hundred years. How has the Supreme Court's power of judicial review expanded the role of the Court?
  - Is the practice of judicial review consistent with democratic practices? Why or why not?
  - Does the Supreme Court have too much power? Why or why not?
2. In Federalist 78, Alexander Hamilton insisted that the judiciary would be the "least dangerous branch" because it would have "no influence over either the sword or the purse." Was Hamilton right both in his time and in our time? Why or why not?
  - What are the constitutional powers of the Supreme Court?
  - How can the exercise of judicial power be checked?
3. What are the major arguments for and against judicial review?
  - Alexander Hamilton claimed in *Federalist* No. 78 that "the interpretation of the laws is the proper and peculiar province of the courts." Do you agree or disagree? Why?
  - What are the advantages and disadvantages of an appointed, life-tenured branch of government overturning laws passed by a democratically elected body of government?
4. Why has there been a long and continuing debate over the scope and legitimacy of judicial review in a democracy?
  - Evaluate the argument that judicial review is needed because majorities can't be relied on for the protection of individual rights.
  - Evaluate the claim that "In practice the courts have more often leaned with rather than against the political winds. Judges are more apt to reflect the constitutional sensibilities of the people than to displace them."\*

\* Keith E. Whittington., "Judicial Review and Interpretations: Have the Courts Become Sovereign When Interpreting the Constitution?" *Institutions of American Democracy: The Judicial Branch*, Kermit L. Hall and Kevin T. McGuire, eds., New York: Oxford University Press, 2005, pp. 138–39.
5. The debate about the legitimacy of judicial review is one of the longest-running debates in the history of the United States. What are the major arguments for and against judicial review?
  - Evaluate the claim that although judicial review is not specifically mentioned in the United States Constitution, it can be inferred from Article III, Section 2, and Article VI, Section 2.
  - Evaluate the argument that the Supreme Court's authority depends upon its being faithful to both the *language* and the *spirit* of the United States Constitution.
6. Judicial review is an important part of our constitutional system of government. How did the Supreme Court acquire the power of judicial review?
  - Do you think the Supreme Court should have the power to declare an act of Congress unconstitutional? Why or why not?
  - How should justices determine the meaning of the words of the Constitution?