Law & Courts

Newsletter of the Law & Courts Section of the American Political Science Association

Volume 24, Number 3
Fall 2014

From the Section Chair

Cornell Clayton
Washington State University
cwclayton@wsu.edu

Those attending the annual meeting in Washington, D.C. this past September were rewarded with the hottest new research in the field. Literally hot… as in on fire! Sorry, I couldn't resist a pun about the hotel fire (It was jarring, to say the least, to see so many of our colleagues loitering around in the middle of the night, and to awake the next morning to see a disheveled Jim Gibson providing fire commentary on the local news!).

Despite the fire, the conference was a great success. Virginia Hettinger and Anna Law did a wonderful job organizing a set of well-attended panels. Larry Baum was honored with the Section's Lifetime Achievement Award, which he accepted with characteristic grace and modesty. His article in this edition of the newsletter shares his reflections on how the discipline has changed over the length of his career. I can only echo Mark Graber, who, in introducing the conference panel on Larry's work, said that Larry Baum is exactly the kind of scholar and colleague we want to hold up for emulation, to tell our junior colleagues just entering the profession to "go and be like him!"

As we approach 2015, the Section is in excellent shape. We have 537 members, which ranks us 8th among the 46 organized sections of APSA. At the annual meeting, the Section's executive committee took action on two major items. The first involved the Section's journal, *The Journal of Law and Courts* (*JLC*). In its second year of publication, *JLC* has met with growing success – institutional circulation increased 33 percent during the past year; the number of individuals receiving online updates grew by 48 percent; subscriptions and net income are both higher than projected; and submissions are rising. The journal's accomplishments are due to the hard-work of a talented edi-

(continued on page 4)

Inside this issue:

Table of Contents

Instructions to Contributors

General Information

Law and Courts publishes articles, notes, news items, announcements, commentaries, and features of interest to members of the Law and Courts Section of the APSA. **Law and Courts** publishes three editions a year (Fall, Summer, and Spring). Deadlines for submission of materials are: February 1 (Spring), June 1 (Summer), and October 1 (Fall/Winter). Contributions to **Law and Courts** should be sent to the Editor:

Todd Collins, Editor
Law and Courts
Department of Political Science and Public Affairs
Western Carolina University
360 A Stillwell Building
Cullowhee, NC 28723
tcollins@email.wcu.edu

Articles, Notes, and Commentary

We will be glad to consider articles and notes concerning matters of interest to readers of **Law and Courts.** Research findings, teaching innovations, release of original data, or commentary on developments in the field are encouraged.

Footnote and reference style should follow that of the *American Political Science Review.* Please submit your manuscript electronically in MS Word (.doc) or compatible software. Graphics are best submitted as separate files. In addition to bibliography and notes, a listing of website addresses cited in the article with the accompanying page number should be included. Please include your preferred article title, your email address, and a separate JPG file of your headshot with your submission.

Symposia

Collections of related articles or notes are especially welcome. Please contact the Editor if you have ideas for symposia or if you are interested in editing a collection of common articles. Symposia submissions should follow the guidelines for other manuscripts.

Announcements

Announcements and section news will be included in **Law and Courts**, as well as information regarding upcoming conferences. Organizers of panels are encouraged to inform the Editor so that papers and participants may be reported. Developments in the field such as fellowships, grants, and awards will be announced when possible. Finally, authors should notify ***BOOKS TO WATCH FOR EDITOR***: *Drew Lanier,* of publication of manuscripts or works soon to be completed.

torial board led by David Klein (University of Virginia). As the inaugural editor of the journal, David's four-year term was set to expire next year. However, given the journal's early success, and the fact that it is still in its formative stages, the executive committee unanimously decided that it was in the interest of *JLC* if David remained as editor for an additional two-year extension to his term. Fortunately, after only a little arm-twisting, David has agreed. Please join me in thanking him for the great job he has done thus far and his willingness to serve another two years in this demanding role.

The other decision taken at the executive committee meeting involves Section dues. For some time now the section has been doing a lot with very little -- in addition to the success of the journal, our book review continues to be an incredibly important resource, and our newsletter and list-serv provide valuable spaces for discussion of developments in the field and disseminating news and information to Section members. These activities, however, require resources. Other than a small increase to support the journal, section dues have not been augmented in some time. The Section has actually been running at barely break-even for some years now and the budget was not on a sustainable path over the long term.

Beginning next year, Section dues will increase by $5 to an annual rate of $30 for regular members and $25 for student members (of course, these dues include a subscription to the journal). While it is never pleasant to see professional dues increased, this action, together with projected revenues from *JLC*, should place the Section on a sound financial footing in the future, allowing it to grow and support activities down the road.

As usual, this edition of the newsletter is full of information about the Section and a bevy of interesting articles which I commend to you. In addition to a mini-symposium on prelaw advising (much discussed on the list-serv in recent months), Dvora Yanow and Peri Schwartz-Shea have a thought-provoking article on IRB review processes (an opportune discussion in light of the recent controversy surrounding research on judicial elections in Montana). Mark Hurwitz also has an interesting update on the state of *Justice Systems Journal*, which, in light of *Judicature's* recent departure, is another timely read.

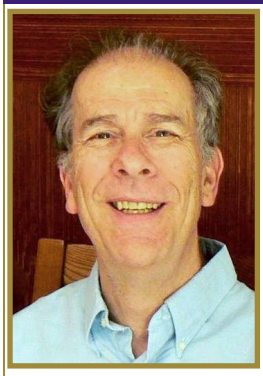
I hope you will also take a moment to look at the call for nominations for Section officers and Section awards. The Section's awards, given out each year at the annual meeting, are an important way for us to recognize the terrific work being done by our colleagues in the field. I encourage you to nominate (or self-nominate) individuals you think deserving, as well as nominate individuals you think would be willing to serve the Section in leadership roles. I also want to thank the many individuals who agreed to serve on these selection committees for their valuable service to the Section.

There are several other individuals deserving our heartfelt thanks for freely giving their time to the well-being of our Section during this past year. Gordon Silverstein (Yale) did a wonderful job as section chair. Chris Bonneau (University of Pittsburg) finished his term as section treasurer, leaving the section's accounts in good order. Paul Parker (Truman State) completed service as *LPBR* editor, an onerous and under-compensated position that he performed brilliantly. George Thomas (Claremont McKenna College) and Matt Hall (Notre Dame) are stepping down from their two-year terms of service on the executive committee, and also deserve our appreciation.

Let me also thank those who have agreed to serve the Section in the upcoming year. Taking over as section treasurer is Mariah Zeisberg (University of Michigan). Stephen Meinhold (North Carolina, Wilmington) is our new editor of the *LPBR*. Carol Nackenoff (Swarthmore College) continues her wonderful service as section secretary. Christina Boyd (University of Georgia) and Justin Crowe (Williams College) will join Anna Law (CUNY Brooklyn), Ryan Owens (Wisconsin), and Amy Steigerwalt (Georgia State) on the executive committee this year. As I write this update, Mitch Pickerill (Northern Illinois) and Julie Novkov (SUNY Albany) are busy organizing the panels for next year's annual meeting. Finally, I wish to thank our webmaster Art Ward (Northern Illinois), David Klein, editor of the *JLC*, and our newsletter editor, Todd Collins (Western Carolina), all for their continued service and hard work on behalf of our Section.

Some Thoughts on Studying Law and Courts

Larry Baum - 2014 Lifetime Achievement Award Winner
Ohio State University
Baum.4@polisci.osu.edu



Midway through my time as an undergraduate at San Francisco State College, I decided to become a political scientist. That decision rested on the assumption that a college faculty position would occupy only a portion of normal working hours. As a result of that favorable situation, I thought, I would have abundant time for other pursuits.

It was unsettling when I discovered that I had badly misunderstood the reality of academic life, but it was fortunate that I made that discovery while a graduate student at the University of Wisconsin in Madison. The faculty members at Wisconsin gave me enormous help in learning political science and preparing for my career. It was equally fortunate that I joined the faculty at Ohio State, where my colleagues continued my education informally and provided the personal support I needed to navigate the challenges that young faculty members face.

When I chose an academic career I had the idea that teaching would be fun, and *that* idea turned out to be accurate. Teaching undergraduate students has been a source of great satisfaction. Working with graduate students has been equally satisfying, a great pleasure and a source of friendships that I value. Although I had a lot to learn about teaching when I started out, learning how to do research was even more of a challenge. But once I figured out what I was doing, research became (and remains) almost as much fun as teaching.

Joel Grossman's course in the judicial process at Wisconsin settled the question of what I would study: from that point on, my primary interest was the courts. I have great admiration for the political scientists who do important research across multiple fields, but nearly all of my own work has fallen in the law and courts field. In my defense, I can say only that my research has ranged widely across this field, widely enough that it might be best characterized as miscellaneous. Rather than developing a well-defined focus, over time I have taken on an array of projects that I found interesting. In one instance, reading about a measurement technique in the *Baseball Research Journal* launched me on a study that occupied much of my time for several years. Luckily, a portion of the projects I chose turned out to interest some other scholars.

One of the most satisfying aspects of my career is the fact that the range of my research has required me to keep learning new things, both theoretical and empirical. Among the results is that I came to know at least a little about fields of legal policy such as immigration, torts, and takings. Then there is the judicial politics of patents, which became a strong interest when I was in graduate school--strong enough that it was the subject of my dissertation--and which I then wrote about from time to time over four decades. That interest has been the subject of some good-natured ridicule by professional colleagues, but I remain proud that my first publication was in the *Journal of the Patent Office Society*. As some readers surely have noticed, even the Supreme Court has gotten interested in patents again after a long period of avoiding that field as much as possible.

Shortly before I began to study law and courts, C. Herman Pritchett published an essay on the state of the field. The essay concluded with Pritchett's eloquent plea that scholars in the field recognize the value of multiple approaches to the study of courts. That plea made sense to me when I first read it, but it was only later that I fully recognized the wisdom of what Pritchett wrote. It seems to me that our understanding of the phenomena we study is enhanced in fundamental ways by what we can learn from scholars whose theoretical perspectives and analytic methods differ from our own.

That benefit is demonstrated by the impact of new approaches to the study of law and courts. Let me take two examples from the analysis of judicial behavior. Research that takes a rational choice perspective on judging goes back several decades, but that perspective gained a stronger foothold in

(Continued on page 6)

the 1990s. The clear theoretical assumptions of rational choice theories encouraged scholars in the field to become more explicit and more thoughtful about their own theoretical perspectives on judicial behavior, and scholarship on that subject improved considerably as a result. The rational choice perspective also provided an agenda for research that remains fruitful today.

The other example is the development of historical institutionalism. One contribution of this approach is that it calls attention to the importance of judicial doctrine, as distinguished from votes on case outcomes, and to the legal and political context of doctrinal development. Another contribution is that it challenged what had been the dominant view about the forces that shape judicial decisions, a view that largely dismissed legal considerations as an influence on decision making in the Supreme Court. In both ways, historical institutionalism has led to a richer understanding of judicial behavior.

The law and courts field has also benefited from the growing use of ideas and research findings from other fields of political science. What had once been an insular field within political science, often treating judges and courts as unique, has been more fully integrated into the discipline as a whole. Scholars in the field today routinely make use of a broad range of political science scholarship as a foundation for their work. It is also noteworthy how much important research on the courts is done by scholars who are not primarily judicial specialists.

In contrast with its insularity as a field of political science, the law and courts field always had an interdisciplinary element, with scholars drawing on relevant work in disciplines such as law, history, and sociology. That element too has become more pronounced over time, and one indication of this trend is a growing number of collaborations between political scientists and legal scholars. This trend, too, has served us well.

My work has been strengthened considerably when I draw from other disciplines. I have borrowed from theoretical formulations and research findings in political science fields such as voting behavior and public policy. I have learned from scholarship in other disciplines such as work in the sociology of organizations, which played a valuable role in my early research, and in social and cognitive psychology, which has been an important foundation for much of my recent and current research.

In the law and courts field, as in other fields, some scholarship is aimed at simplifying reality to make it more tractable, while other scholarship emphasizes complexity. Both are important, and the interplay between them advances our understanding of the phenomena we study. I have done work of both types, but I am increasingly drawn to complexity. That tendency is reflected in my writing on judicial behavior over the past two decades, writing in which I have suggested that judges are more complex in their motivations and cognitions than is suggested by the most widely accepted theories of judicial behavior. My own feeling is that our comprehension of the bases for judges' choices will move forward most effectively if we recognize those complexities and take them into account. But like so many other aspects of scholarship, choices between simplicity and complexity are largely a matter of individual taste. I am convinced that in this and other respects, people do their best work when they follow their own tastes in both what they study and how they study it.

Assessments of scholarly fields tend to emphasize their weaknesses more than their strengths, and there is always room for criticism of the body of work that the participants in a field have done. But I see no reason to view the current state of the law and courts field negatively; rather, there is a great deal to be happy about. I have already noted some very positive developments in the field, and I think that more people are doing more good research today than in any prior period. The primary reason is the growing level of knowledge and skills held by successive generations of new scholars. Indeed, the youngest generation of participants in the field today has already done a good deal to advance our understanding of major issues in the field.

For me, the law and courts field is more than a set of scholars who study the same portion of the political world; it is a community as well. We differ a good deal in what we study and how we study it, but I have always had the feeling that we are engaged in a collective enterprise of trying to understand better the set of phenomena that interest us as a group. This community supports and strengthens my work and helps to make my life as a scholar so enjoyable. It also includes many people who inspire me because of the values that guide their work and their lives. I appreciate being part of a community that has done so much for me.

Encountering your IRB: What political scientists need to know

Dvora Yanow, Wageningen University

Peregrine Schwartz-Shea, University of Utah

Dvora.Yanow@wur.nl / psshea@poli-sci.utah.edu

This is a condensed version of an essay appearing in Qualitative & Multi-Method Research [Newsletter of the APSA Organized Section for Qualitative and Multi-Method Research] Vol. 12, No. 2 (Fall 2014). The original, which is more than twice the length and develops many of these ideas more fully, is available from the authors.

After we finished preparing this essay, a field experiment concerning voting for judges in California, Montana, and New Hampshire made it even more relevant. Three political scientists—one at Dartmouth, two from Stanford—mailed potential voters about 300,000 flyers marked with the states' seals, containing information about the judges' ideologies. Aside from questions of research design, whether the research passed IRB review is not entirely clear (reports say it did not in Stanford but was at least submitted to the Dartmouth IRB; for those who missed the coverage, see this New York Times article and political scientist Melissa Michelson's blog (accessed November 3, 2014).

Two plausible explanations exist for what have been key points in the public discussion:

1. Stanford may have had a reliance agreement with Dartmouth, meaning that it would accept Dartmouth's IRB's review in lieu of its own separate review;
2. Stanford and Dartmouth may have "unchecked the box" (see below), relevant here because the experiments were not federally funded, meaning that IRB review is not mandated and that universities may devise their own review criteria.

Still, neither of these contentions explains what appear to be lapses in ethical judgment in designing the research (among others, using the state seals without permission and thereby creating the appearance of an official document). We find this a stellar example of a point we raise in the essay: the discipline's lack of attention to research ethics, possibly due to reliance on IRBs and the compliance ethics that IRB practices have inculcated.

With this as background and continuing our research on US Institutional Review Board (IRB) policies and practices (Schwartz-Shea and Yanow 2014, Yanow and Schwartz-Shea 2008), we see that many political scientists lack crucial information about IRB matters. To facilitate political scientists' more effective interactions with IRB staff and Boards, we would like to share some insights gained from this research.

University IRBs implement federal policy, monitored by the Department of Health and Human Services' Office of Human Research Protections (OHRP). The Boards themselves are comprised of faculty colleagues (sometimes social scientists) plus a community member. IRB administrators are often not scientists (of any sort), and their training is oriented toward the language and evaluative criteria of the federal code. Indeed, administering an IRB has become a professional occupation with its own training and certification. IRBs review proposals to conduct research involving "human subjects" and examine whether potential risks to them have been minimized, assessing those risks against the research's expected benefits to participants and to society. They also assess researchers' plans to provide informed consent, protect participants' privacy, and keep the collected data confidential.

The federal policy was created to rest on local Board decision-making and implementation, leading to significant variations across campuses in its interpretation. Differences in practices often hinge on whether a university has a single IRB evaluating all forms of research or different ones for, e.g., medical and social science research. Therefore, researchers need to know their own institutions' IRBs. In addition, familiarity with key IRB policy provisions and terminologies will help. We explain some of this "IRB-speak" and then turn to some procedural matters, including those relevant to field researchers conducting interviews, participant-observation/ethnography, surveys, and/or field experiments, whether domestically or over-

(Continued on page 8)

seas.

IRB-speak: A primer

Part of what makes IRB review processes potentially challenging is its specialized language. Regulatory and discipline-based understandings of various terms do not always match. Key vocabulary includes the following.

"Research." IRB regulations tie this term's meaning to the philosophically-contested idea of "generalizable knowledge" (CFR §46.102(d)). This excludes information-gathering for other purposes and, on some campuses, other scholarly endeavors (e.g., oral history) and *course-related* exercises.

"Human subject." This is a *living* individual with whom the researcher interacts to obtain data. "Interaction" is defined as "communication or interpersonal contact between investigator and subject" (CFR §46.102(f)). But "identifiable private information" obtained without interaction, such as through the use of existing records, also counts.

"Minimal risk." This research is when "the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests" (CFR §46.102(i)). But everyday risks vary across subgroups in American society, not to mention worldwide, and IRB reviewers have been criticized for their lack of expertise in risk assessment, leading them to misconstrue the risks associated with, e.g., comparative research (Schrag 2010, Stark 2012).

"Vulnerable populations." Six categories of research participants "vulnerable to coercion or undue influence" are subject to additional safeguards: "children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons" (CFR §46.111(b)). Federal policy enables universities also to designate other populations as "vulnerable," e.g., Native Americans.

Levels of review. Usually, IRB staff decide a proposed project's level of required review: "exempt," "expedited," or "convened" full Board review. "Exempt" does not mean that research proposals are not reviewed. Rather, it means exemption *from full Board review*, a status that can be determined only via some IRB assessment. Only research entailing no greater than minimal risk is eligible for "exempt" or "expedited" review. The latter means assessment by either the IRB chairperson or his/her designee from among Board members. This reviewer may not disapprove the proposal, but may require changes to its design. Projects that entail greater than minimal risk require "convened" (i.e., full) Board review.

Exempt category: Methods. Survey and interview research and observation *of public behavior* are exempt from full review if the data so obtained do not identify individuals *and* would not place them at risk of "criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation" if their responses were to be revealed "outside of the research" (CFR §46.101(b)(2)(ii)). Observing public behaviors as political events take place (think: the "Occupy" movement) is central to political science research. Because normal IRB review may delay the start of such research, some IRBs have an "Agreement for Public Ethnographic Studies" that allows observation to begin almost immediately, possibly subject to certain stipulations.

Exempt category: Public officials. IRB policy explicitly exempts surveys, interviews, and public observation *involving "elected or appointed public officials or candidates for public office"* (45 CFR §46.101(b)(3))—although who, precisely, is an "appointed public official" is not clear. This exemption means that researchers studying public officials using any of these three methods might—in complete compliance with the federal code—put them at risk for "criminal or civil liability" or damage their "financial standing, employability, or reputation" (CFR §46.101(b)(2)). The policy is consistent with legal understandings that public figures bear different burdens than private citizens.

(Continued on page 9)

Exempt category: Existing data. Federal policy exempts from full review "[r]esearch involving the collection or study of existing data, documents, [or] records, … *if these sources are publicly available* or if the information is recorded by the investigator in such a manner that *subjects cannot be identified, directly or through identifiers linked to the subjects*" (§46.101(b)(4)). However, university IRBs vary considerably in how they treat existing quantitative datasets, such as the Inter-University Consortium for Political and Social Research collection (see University of Michigan). Some universities require researchers to obtain IRB approval to use any datasets not on a preapproved list *even if* those datasets incorporate a responsible use statement.

"Unchecking the box." The "box" in question—in the Federal-wide Assurance form that universities file with OHRP registering their intention to apply IRB regulations to all human subjects research conducted by employees and students, regardless of funding source—when "unchecked" indicates that the IRB will omit from review any research funded by sources other than the HHS (thereby limiting OHRP jurisdiction over such studies). IRB administrators may still, however, require proposals for unfunded research to be reviewed.

Procedural matters: Non-experimental field research

The experimental research design model informing IRB policy creation and constituting the design most familiar to policy-makers, Board members and staff means that field researchers face particular challenges in IRB review.

As the forms and online application sites developed for campus IRB uses reflect this policy history, some of their language is irrelevant for non-experimental field research designs (e.g., the number of participants to be "enrolled" in a study or "inclusion" and "exclusion" criteria, features of laboratory experiments or medical randomized controlled clinical trials). Those templates can be frustrating for researchers trying to fit them to field designs. Although that might seem expeditious, conforming to language that does not fit the methodology of the proposed research can lead field researchers to distort the character of their research.

IRB policy generally requires researchers to inform potential participants—to "consent" them—about the scope of both the research and its potential harms, whether physical, mental, financial or reputational. Potential subjects also need to be consented about possible identity revelations that could render them subject to criminal or civil prosecution (e.g., the unintentional public revelation of undocumented workers' identities). Central to the consent process is the concern that potential participants not be coerced into participating and understand that they may stop their involvement at any time. Not always well known is that federal code allows more flexibility than some local Boards consider. For minimal risk research, it allows: (a) removal of some of the standard consent elements; (b) oral consent without signed forms; (c) waiver of the consent process altogether if the "research could not practicably be carried out without the waiver or alteration" (CFR §46.116(c)(2)).

Procedural matters: General

IRB review process backlogs can pose significant time delays to the start of a research project. Adding to potential delay is many universities' requirement that researchers complete some form of training before they submit their study for review. Such delay has implications for field researchers negotiating site "access" to begin research and for all empirical researchers receiving grants, which are usually not released until IRB approval is granted. Researchers should find out their campus IRB's turnaround time as soon as they begin to prepare their proposals.

Collaborating with colleagues at other universities can also delay the start of a research project. Federal code explicitly allows a university to "rely upon the review of another qualified IRB…[to avoid] duplication of effort" (CFR §46.114), and some IRBs are content to have only the lead researcher proceed through her own campus review. Other Boards insist that all participating investigators clear their own campus IRBs. With respect to overseas research, solo or with foreign collaborators, although federal policy recognizes and allows for international variability in ethics regulation (CFR §46.101(h)), some US IRBs require review by a foreign government or re-

(Continued on page 10)

search setting or by the foreign colleague's university's IRB, not considering that not all universities or states, worldwide, have IRBs. Multiple processes can make coordinated review for a jointly written proposal difficult. Add to that different Boards' interpretations of what the code requires, and one has a classic instance of organizational coordination gone awry.

In summary

On many campuses political (and other social) scientists doing field research are faced with educating IRB members and administrative staff about the ways in which their methods differ from the experimental studies performed in hospitals and laboratories. Understanding the federal regulations can put researchers on more solid footing in pointing to permitted research practices that their local Boards may not recognize. And knowing IRB-speak can enable clearer communications between researchers and Board members and staff. Though challenging, educating staff as well as Board members potentially benefits all field researchers, graduate students in particular, some of whom have given up on field research due to IRB delays, often greater for research that does not fit the experimental model (van den Hoonard 2011).

IRB review is no guarantee that the ethical issues relevant to a particular research project will be raised. Indeed, one of our concerns is the extent to which IRB administrative processes are replacing research ethics conversations that might otherwise (and, in our view, should) be part of departmental curricula, research colloquia, and discussions with supervisors and colleagues. Moreover, significant ethical matters of particular concern to political science research are simply beyond the bounds of US IRB policy, including recognition of the ways in which current policy makes "studying up" (i.e., studying societal elites and other power holders) more difficult.

Change may still be possible. In July 2011, OHRP issued an Advanced Notice of Proposed Rulemaking, calling for comments on its proposed regulatory revisions. As of this writing, the Office has not yet announced an actual policy change (which would require its own comment period). OHRP has proposed revising several of the requirements discussed in this essay, including allowing researchers themselves to determine whether their research is "excused" (their suggested replacement for "exempt"). Because of IRB policies' impact, we call on political scientists to monitor this matter. Although much attention has, rightly, been focused on Congressional efforts to curtail National Science Foundation funding, as IRB policy affects *all* research engaging human participants, it deserves as much disciplinary attention.

References

Schrag, Zachary M. 2010. *Ethical imperialism: Institutional review boards and the social sciences, 1965–2009.* Baltimore, MD: Johns Hopkins University Press.

Schwartz-Shea, Peregrine and Yanow, Dvora. 2014. Field research and US institutional review board policy. Betty Glad Memorial Symposium, University of Utah (March 20-21). http://poli-sci.utah.edu/2014-research-symposium.php

Stark, Laura. 2012. *Behind closed doors: IRBs and the making of ethical research.* Chicago: University of Chicago Press.

US Code of Federal Regulations. 2009. Title 45, Public Welfare, Department of Health and Human Services, Part 46, Protection of human subjects. www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html.

Van den Hoonaard, Will. C. 2011. *The seduction of ethics.* Toronto: University of Toronto Press.

Yanow, Dvora and Schwartz-Shea, Peregrine. 2008. Reforming institutional review board policy. *PS: Political Science & Politics* 41/3, 484-94.

An Update and Overview of *Justice System Journal*

Mark S. Hurwitz, Editor
Western Michigan University

The *Justice System Journal* had been published by the National Center for State Courts continuously since 1976. During this time *JSJ* has evolved to reflect disparate types of research on myriad aspects of the judicial system. More dramatic changes arrived at the beginning of 2014 when NCSC transferred publishing responsibilities of *JSJ* to Routledge (of Taylor and Francis Group), with NCSC retaining editorial oversight of the Journal. At this same time NCSC appointed me as Editor of *Justice System Journal*, as I took over the reigns from Bob Howard who was Editor from 2008-13. With so many changes in such a short period of time, I would like to update members of the Law and Courts section on the numerous transitions

(Continued on page 11)

marked this year at *JSJ*, and I thank Todd Collins for allowing me to do so.

In addition to my appointment as Editor, the tangible differences for *JSJ* in 2014 include a new publisher, a new look to the Journal, and a new online submission system, which has translated into a much more efficient submission and review process. In particular, these changes can be observed at the new website for *JSJ*:

http://www.tandfonline.com/loi/ujsj20.

And, the direct link to submit manuscripts is:

http://mc.manuscriptcentral.com/ujsj.

Notwithstanding these changes, *JSJ* remains committed to publishing innovative research on the judicial system. This includes research that should interest many in the Law and Courts community, both as readers and authors. That is, the path taken by the Journal during the tenure of former Editor Bob Howard before he became Executive Director of the Southern Political Science Association will continue and, hopefully, accelerate while I am Editor. In this regard, we provide in the Aims and Scope for *JSJ* what we hope to publish in the Journal:

> *The Justice System Journal is an interdisciplinary journal that publishes original research articles on all aspects of law, courts, court administration, judicial behavior, and the impact of all of these on public and social policy. Open as to methodological approaches, the Justice System Journal aims to use the latest in advanced social science research and analysis to bridge the gap between practicing and academic law, courts and politics communities.*
>
> *The Justice System Journal invites submission of original articles and research notes that are likely to be of interest to scholars and practitioners in the field of law, courts, and judicial administration, broadly defined. Articles may draw on a variety of research approaches in the social sciences. The journal does not publish articles devoted to extended analysis of legal doctrine such as a law review might publish, although short manuscripts analyzing cases or legal issues are welcome and will be considered for the Legal Notes section.*

As you can see, *JSJ* is open to methodological approaches and substantive fields, much of which should interest members of the Law and Courts community. At *JSJ* we presently seek to advance the Journal based on the foundational excellence and contributions of past authors and editors. Indeed, the Journal's most recent editors all have been members of our Law and Courts section; moreover, many of the current members of the *JSJ* Editorial Board are a part of the Law and Courts community. The primary way we can succeed as an outlet for the research interests of our scholarly community is for authors to submit their innovative and creative research on law and courts to *JSJ*.

I list the following articles to highlight some of what we publish at *JSJ*. All of these articles were published in the current volume of *JSJ* during 2014. In many ways they represent the diverse scholarship that we publish in *JSJ*, as well as the scholars both within and outside the community of Law and Courts who have found a place for their research in *JSJ*.

> Ryan C. Black and Amanda C. Bryan. 2014. "Calling in the Reserves: Judicial Replacements on the U.S. Su preme Court." 35(1): 4-26.
>
> Meghan E. Leonard. 2014. "Elections and Decision Making on State High Courts: Examining Legitimacy and Judicial Review." 35(1): 45-61.
>
> Michael P. Fix. 2014. "Does Deference Depend on Distinction? Issue Salience and Judicial Decision-Making in Administrative Law Cases." 35(2): 122-38.
>
> Ira Sommers, Jonathan Goldstein, and Deborah Baskin. 2014. "The Intersection of Victims' and Of fenders' Sex and Race/Ethnicity on Prosecutorial De cisions for Violent Crimes." 35(2): 178-204.
>
> Eileen Braman and Beth Easter. 2014. "Normative Legitimacy: Rules of Appropriateness in Citizens' As sessments of Individual Judicial Decisions." 35(3): 239-68.
>
> Bethany Blackstone and Paul M. Collins, Jr. 2014. "Strategy and the Decision to Dissent on the U.S. Courts of Appeals." 35(3): 269-86.

Additionally, as many of you know, *JSJ* has decided to publish those articles that were accepted for publication by *Judicature* but not actually published before *Judicature* ceased operations earlier this year. We believe it is critical that these authors with articles accepted through the peer-review process at *Judicature* have an outlet for publishing their research, and *JSJ* is pleased to provide that opportunity for these scholars.

Finally, *JSJ* is available via many library sources, including JSTOR and the Hein Online Law Journal Library. To continue its viability in a competitive publishing environment, it is vital that *JSJ* be available in as many outlets as possible. Subscription information for *JSJ* can be accessed at online

(Continued on page 12)

here. Your making a recommendation to your institutional library is greatly appreciated, as that will help ensure that *JSJ* persists as an outlet for scholars of articles on the judicial system.

I thank the readers of, and contributors to, the *Justice System Journal* for your continued support. If you have any questions, please feel free to ask. I look forward to seeing more submissions to *JSJ* from the Law and Courts community.

The Start (Again!) of Pre-Law Advising at LSU

Rebecca Caire
Louisiana State University

Recently, the Dean of the College of Humanities & Social Sciences at Louisiana State University (LSU), Dr. Stacia Haynie, received a charge from the administration to create a pre-law advising program. Although there were various iterations of pre-law advising programs at LSU in the past, none in recent memory have had the structure and support that we have at the present time. It is something that I am really excited about, and something that I believe will benefit our students tremendously. Starting immediately, LSU students interested in attending law school will have the opportunity to speak with a centralized professional advisor for pre-law assistance. In addition, our pre-law advisor will facilitate various pre-law programing initiatives in collaboration with faculty and staff from LSU's Paul M. Hebert Law Center and our undergraduate Pre-Law Society, Phi Alpha Delta.

I was thrilled to learn that we were going to create a program that has the potential to be incredibly impactful for our students. I am fortunate to supervise the Student Services area in our college, which is made up in part of seven academic counselors. Through the aforementioned counselors, we advise approximately 3,000 undergraduate students on the 43 major and concentration options and 33 minor options owned within the College of Humanities & Social Sciences. One specific academic counselor, Erin Snyder, is the individual designated as the pre-law advisor here at LSU. Erin will be working not only with the students pursuing a major in our college who are interested in attending law school, but with any LSU student interested in following that particular path. I realize that there is variation as to how pre-law advising is handled and that not every university uses a professional advisor to manage these responsibilities. However, for LSU, I believe that this arrangement is a perfect fit.

As I was at one time an academic counselor myself, I can personally attest to how passionate our academic counselors are about what they do, which is, of course, helping our students to achieve academic success. It is immensely satisfying to not only assist a student in navigating their curricular path and the university as a whole, but to also connect them with college and university resources that will enhance their experience at LSU. Although neither Erin nor I have been to law school, I do not think that this is an obstacle in our effectively advising students interested in pre-law. We offer degrees in English, philosophy, sociology, and, of course, political science (among others) and have not individually pursued degrees in these areas either. However, we advise students on our college's undergraduate areas of study every day and are very effective in doing so. We are committed to learning as much as we can about the law school experience as a whole to best guide our students. Neither Dean Haynie nor I believe in doing things halfway; I can assure you that we are going to do this extremely well…or as Dean Haynie is particularly fond of saying, "We're all in!"

When we received the news that we were going to house the pre-law advising program in our college, a multitude of preparations immediately took place. First, Dean Haynie reached out to the administration at LSU's Law Center, all of whom have been immensely supportive of our efforts. Dean Haynie also committed to providing ongoing funding to the pre-law advising program to allow for conference attendance and other professional development. As a result, Erin and I recently attended the joint Southern Association of Pre-law Advisors &

(Continued on page 13)

Southwest Association of Pre-law Advisors Conference. Through this conference experience, we were able to attend sessions about many different areas of pre-law advising, from the importance of professionalism in completing an admissions application to financial aid opportunities in law school. Further, Erin was matched with a pre-law advising mentor from a peer institution. I think that this mentoring relationship will be tremendously helpful to our program as we begin this journey.

Next, plans were made to connect Erin and me with two distinguished faculty members from the LSU Law Center. Over the course of an afternoon, we met with the aforementioned faculty members to gather insights as to their perspectives on successful law students. What types of students do they find are most successful in LSU's law program? What specific undergraduate coursework is most beneficial for them to complete? What types of extracurricular activities, internships, and job opportunities should undergraduate students undertake to better prepare themselves for a successful entrance into law school? Needless to say, we were appreciative of these faculty insights as to how to best prepare a student for law school.

Dean Haynie also coordinated a meeting with several representatives from the LSU Law Center administration and faculty, members of the faculty from our college, and the undergraduate president of our university's Pre-law Society. Some very exciting ideas were discussed, including the possibility of a special pre-law certification for students who took coursework designated as critical (i.e., writing intensive courses, courses emphasizing logic and reasoning, and courses stressing critical reading skills) for students with a pre-law interest. Further conversations are taking place now regarding this idea and possible implementation in the future.

Another idea brought forth by an LSU Law faculty member is one that I think would be especially meaningful for our undergraduate students, and that is pairing current second and third year LSU Law students as mentors with LSU undergraduate students interested in law. Other suggestions that we are exploring include coordinating visits for our undergraduate students to visit the LSU Law Center to include sitting in on selected law classes, and collaboration between the undergraduate Pre-law Society and the LSU Law Chapter of the Student Bar Association.

Erin and I recently had the opportunity to meet with the Director of Admissions for LSU's Law Center. We peppered him with questions on topics ranging from the admissions process; what to do--and perhaps more importantly--what not to do-when applying to law school; the importance of the personal statement; the LSAT; the Law School Admission Council; and, of course, the LSU Law program. Through this connection, Erin and I have a more detailed understanding of the nuances involved with the application and admissions process and about the wonderful law program on our campus. We of course are looking forward to expanding our knowledge about other law schools and their application processes and degree programs as well.

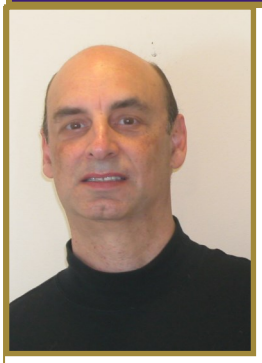
Overall, I am pleased with how our pre-law advising program has taken shape in the last two months. We are now officially open for business in meeting directly with LSU undergraduate students about their pre-law interests. We are also in the process of outlining the programming initiatives that we plan to implement in both the short and long term. In addition, our college's Communications Director is creating various promotional pieces and a website about our pre-law advising program to use in recruiting and advising pre-law students.

Over the course of this process, we have been fortunate in having the opportunity to partner with the LSU Law Center's administration and faculty. They have been incredibly generous with their time and expertise, and this partnership will be one that will directly benefit our students. More importantly, our embracing this responsibility allows our faculty to focus on teaching and scholarship.

With Stacia Haynie at the helm of this exciting opportunity, we have a former faculty pre-law advisor who has a very clear vision of what did and did not work in her time advising students. Dean Haynie is a tenacious advocate for our staff, faculty, and students, and I hope that our collaborative efforts will result in one of the best pre-law advising programs in the country. In addition to our pre-law advising program, plans are being made to implement a 3+3 program. Dean Haynie and I look forward to sharing details of our experience with the 3+3 program with you in the spring edition of this newsletter.

On Advising: Law School, or What?

Jonathan Chausovksy
The State University of New York at Fredonia
chausovs@fredonia.edu



As a public law professor in an undergraduate institution, I am regularly asked for advice and letters of recommendation from students who want to go to law school. For some students this makes sense. But for others, law school seemed like a poor fit. Beyond those who lacked the intellectual ability, there were students were clearly bright, but struggled with or merely disliked reading cases and materials in constitutional law or civil liberties courses. (While these courses are different from most law school content, they are a nice initial indicator of aptitude). Further, in the wake of the 2008 financial crash, the economics of going to law school seemed problematic. Brian Tamanaha (2012), for example, documented the high cost of most law schools along with increasing problems in subsequent employment or even finding appropriate internships during the first two years. Most of our students come from mid-to-small cities or from rural areas, and the potential financial burden was imposing. I treat entry to law school the way a Shaolin Priest treats prospective initiates: the student must show me that they are really committed, and do so by their actions in course work; only then do they get a bowl of rice.

I began to look for other avenues for our students. Many spent a semester in Washington D.C. Those who did typically returned transformed by the experience. This made me think that a track directed towards careers in the public sector would make sense for many students. In particular, I began to look at professional programs in public policy and in international affairs. It turns out that the job market for students with Masters of Public Administration (MPA) degrees was quite good, even in the economic downturn. Most of our students had no idea such programs existed, or the difference between professional and academic graduate programs.

In the fall of 2011, our University arranged a presentation by a representative of the University at Albany Rockefeller College of Public Affairs and Policy. The presentation included a review of job opportunities throughout the country, options for graduate study, and the comparative advantage of professional degrees to academic degrees. This presentation opened our eyes to opportunities for Political Science students. We realized that defining the potential job market for these students as *public affairs* opened our eyes and their eyes to a world of opportunities.

When we recruit prospective students, parents invariably ask what jobs there are in Political Science. The answer is that while there are few jobs in Political Science proper, there are many, many positions in public affairs and policy. Political science students are better positioned than most for these positions, not only because of their interest in public issues, but because they have an understanding of how the various pieces of the public sector fit together. Further, these are great paths for liberal arts graduates, due to the broad range of knowledge required, the flexibility for career changes, and the ability of a student to go right into graduate school, or work for a while after graduation before doing so.

Our department responded by seeking to better prepare our students for these careers. This has included placing greater emphasis on quantitative skills, statistics, and research methods, by shifting some resources to policy-oriented courses, and developing policy-oriented internships. This worked hand-in-hand with a curricula redesign already in progress. Our senior capstone entails an original research project, including topic identification, literature review, crafting a research question, design of the research, gathering of evidence, and evaluation of the findings. This social scientific method gives our graduates, and particularly our best graduates, a competitive advantage in getting placed in an MPA.

We have also just completed an agreement with Rockefeller College on the creation of a path for early entry to their graduate program. Juniors will be able to complete their bachelors' degree by dou-

(Continued on page 15)

ble-counting graduate credits in core policy courses; under certain predefined circumstances, the GRE entrance exam can be waived. This particular school has a 98% placement rate nine months after graduation, with an average starting salary of over $50,000. This potential opens students' eyes to a wide range of possibilities they did not know existed. My hope as we build this program is that students become increasingly motivated to perform, recognizing paths their degree can take them.

Given this, I must emphasize that I still have students who want to go to law school. I make sure to introduce them to the potential of the policy world. I also ask them two crucial questions: what kind of law do you want to study, and how are you going to pay for it? The first question is to get them beyond the generic idea of a lawyer. I try to get them to be precise, even while I recognize that their exposure to law school may well alter their interests; for this reason, law-oriented internships are helpful in this situation. The second question is equally important. I want them to go into debt only once fully recognizing what it will cost, and what their options are. Some have opted for state law schools as a result. Others plan to do law with a public service purpose, knowing there is a public service loan forgiveness program, where in some circumstances 10 years public service can help retire student debt.

The rub: some of my students do indeed choose to go to law school. Others choose careers in public policy, including a professional graduate program. And some do both, in combined degree programs. I am interested to see how the mix changes as our program develops.

References

Brian Z. Tamanaha. 2012. *Failing Law Schools.* Chicago: University Press of Chicago.

The Start (A Coordinated Effort at Pre-law Advising)

Stacia L. Haynie, Dean
Louisiana State University

On July 1 of this year, I began serving as the Dean of the College of Humanities and Social Sciences at Louisiana State University. Shortly thereafter I was asked by the Provost to help coordinate several initiatives that are part of the University's attempt bring the previously autonomous and separate Paul M. Hebert Law Center under the main campus umbrella.

One of the initiatives was crafting a more systematic approach to advising our pre-law students. I recently asked the members of the Law and Courts' listserv about the pre-law advising on their campuses. The answers were fairly uniform and were also indicative of what happens on our campus, and it's not good. Typically, the responses noted that the task was diverted to an untenured faculty member who enjoyed (I use that term facetiously) little or no institutional support. It is generally considered part of the faculty member's service and the time commitment can vary by the department in which the individual is housed and whether or not the individual serves as the pre-law advisor for the university, the college, the department or just his or her students.

All of these permutations appeared in the responses I received. For most of us who teach traditionally designated "law" courses such as criminal law, judicial process, constitutional law, jurisprudence and the like, we "advise" many students informally, but the burden of the designation of "Pre-Law Advisor" can be quite substantial. Rebecca Gill, Assistant Professor at the University of Nevada Las Vegas, surveyed 16 peer institutions.* Her research indicated that 11 utilized professional staff while 5 relied on faculty such as instructors, adjuncts or tenure/tenure-track faculty. Only two of 16 institutions assigned the responsibility to a tenured faculty member. As Dean, I now faced the task of creating an advising program that would be utilized by the entire University. LSU's practice has been similar to that used by a number of the individuals who responded to my query. The process was de-

(Continued on page 16)

centralized generally to an untenured faculty member who was given no training, no support, no compensation and little to no credit for promotion and tenure.

Given my past experience of serving nominally as a pre-law advisor, I can convey with confidence that I was particularly incompetent. I never applied to law school. I never took the LSAT. I never wrote a personal statement. I had no counseling or advising background. I never took a course in it. I never attended conferences on how to go about it. I knew little about law schools generally or specifically, except LSU's. I suspect I am not an exception in this regard. Perhaps I was just a very poor choice. What is true is that LSU got what it paid for.

Dr. Gill, unlike me, devoted substantial energy to her position as University Pre-Law Advisor, organized a university-wide fair, responded to close to 1,000 or more emails annually, slightly fewer phone calls, served as webmaster for the Pre-Law Facebook, Podcast, webpage and Twitter, and served on the Board of Directors of the Western Association of Pre-Law Advisors for which she was responsible for the annual conference. Dr. Gill received no additional compensation, and while she did receive a course release it was in place of the research release provided other faculty. Did I mention she was an untenured Assistant Professor? The crazy things deans ask us to do.

But now I am Dean, and I realize that a course reduction has an actual dollar amount attached to it. Let's say a typical Political Science Assistant Professor's course reduction is around $10,000 with benefits calculated (and the university always calculates the benefits). I then have to provide an adjunct to replace the course release at an embarrassingly low cost of $5,000. (Without the adjunct to replace the course, tuition dollars are reduced by $25,000 to $50,000 depending on the mix of resident and non-resident students and the size of the class. This can creep to $150,000 if the individual teaches large introductory courses.) The individual then asks for a stipend – another $5,000. Then the faculty member asks for a summer 1/9 which we will calculate at around $10,000 (with benefits). So I am now devoting around $25,000 for a pre-law advisor in Political Science plus the $5,000 for the adjunct. At LSU, every department has its own pre-law advisor of sorts. Sociology, English, History, Communication Studies and Philosophy are popular pre-law majors; so let's say I just constrain it to a faculty member in each of those departments. I am now at $150,000 for all five advisors. But wait, Philosophy insists that it be a senior faculty member and so now the budget creeps to $165,000. English, History and Political Science complain because they have twice as many pre-law advisees as Philosophy and Sociology and insist that the stipend be double for their advisors – so now I am at $180,000. Each insists that a travel budget be provided for attending the Pre-Law Advisors National Council (PLANC) conferences. So now we are at $200,000. Oh, and by the way, a very productive faculty member in Geography needs a new specially designed, vented hood for safety reasons, which costs – you guessed it, $200,000 with installation because of asbestos abatement.

For me, setting aside the costs (and really no Dean sets aside the costs), I prefer that faculty focus on the core responsibility of teaching and scholarship. All faculty members will at one point or another be asked to write letters of recommendation for law school or medical school or other graduate programs. All faculty members will, presumably willingly, informally and formally mentor undergraduate students who are interested in attending graduate schools. Designating a pre-law advisor will not change that, but it seemed logical to me to designate a staff member to do the job. They are professional advisors, and Dr. Gill's research suggested I was not alone in my perspective.

Counselors know how to discern a student who is likely to succeed from those who are avoiding adulthood, and here, unlike some of us, know how to navigate that conversation. They spend their days advising students out of one class or major and into another given the student's skill set. In our College, these advisors work with almost 3,000 majors on a regular basis. They handle all manner of students' needs from inquiry to crisis. Advising

(Continued on page 17)

students is their profession. It is what they went to College to do, and those in my College are very, very good at it. I asked one of our Senior Counselors to step into the role of Pre-Law Advisor for the campus. She is here 12 months of the year, day in and day out, serving our students and devoting a portion of her salary to this will reduce the cost to around $15,000. Best of all, she wants the job.

That doesn't solve my problem in Geography, but it does lift the burden from the faculty in six departments. If this blooms into a larger portion of the staff member's responsibility, then I get to have a conversation with the other Deans across the campus whose students we are advising about contributing to the cause. For now I am happy to do this because the majority of pre-law students are in our College, and we will have greater control over the programming.

In addition to determining who would actually advise the students and develop a professional knowledge base, we also wanted to craft year-long programming. While I do not want faculty burdened with administering such programming (scheduling the events, catering, arranging for speakers, advertising, room reservations, etc.), I did want faculty and students to coordinate what the programming would look like. We recently held an hour-long initial discussion meeting between a few key faculty from the LSU campus, a few key faculty from the Law Center, and the undergraduate student who is President of the Pre-Law Society, to discuss what the programming might look like.

This has never happened at LSU. We have never formally engaged in conversations about what an ideal pre-law advising program might look like. We have never had faculty from multiple disciplines on the campus converse about pre-law advising, much less engaged the law school faculty. In addition to deciding what speakers, workshops, and lectures might be included, the law school faculty stressed three skills that they envisioned undergraduate coursework emphasizing: writing experience, logical reasoning, and close or critical reading. While all of these skills are desirable in all our courses, some students seek the path of least resistance and navigate away from all three.

The LSU faculty involved in structuring the pre-law advising program are exploring a designation for courses, or perhaps workshops throughout the year, to provide intensive focus on these three skills. Students who take a certain number of the courses or workshops would be given a pre-law certificate or a designation of some sort on the transcript. I know that it will take time to implement such a program, but in addition to being an ineffective Pre-Law Advisor, I am also not a patient person.

However, I have a phenomenal Assistant Dean, Rebecca Caire, who will be working with me and our new Pre-Law Advisor Erin Snyder to implement a jointly-coordinated focused program of advising and support. As you read Assistant Dean Caire's perspective on our new program, notice phrases like "really excited," "fortunate," "passionate," "appreciative," "wonderful," and "exciting," and think about whether those descriptors are typical in faculty's articulation of their pre-law advising responsibilities. Survey says – probably not.

**I or Dr. Gill will provide her results upon request. It should be noted that as a result of her report her dean transitioned the pre-law advising program to a professional advisor.*

Pre-Law Advising: Best Practices in a Changing Landscape

Scott A. Hendrickson
Creighton University

The 2014-2015 academic year marks my ninth year as a pre-law advisor—almost all of that experience accumulated during a time of "crisis" (or, at least, "perceived crisis") for law schools and the legal profession. In 2006, my first year as a pre-law advisor, 48,937 first year (1L) students enrolled in law school. Steadily increasing 1L enrollment over the next four years saw that number increase to 52,488 in 2010—the highest such number ever reported. Enter the decline. By 2013, 1L enrollment dropped to

(Continued on page 18)

39,675, and media reports suggest the number will be closer to 38,000 for 2014 (ABA n.d.; Sloan 2014). Figure 1 summarizes these ups and downs over the last nine years and also shows the dramatic increase in 1L enrollments over the last 50 years.

Figure 1: First Year Law Student Enrollment (1964-2014)

Do these changes in the law school landscape require a change in pre-law advising strategies? I believe that the answer to this question is a clear "yes," and I want to offer some suggestions for change based on my own experience as well as the collective knowledge of many other pre-law advisors with whom I've interacted. Viewed holistically, I suggest we must *actively engage* with our pre-law students. Pre-law advising cannot be (if ever it was) about passively sitting back and waiting for students to ask questions about how to get into law school. Instead, it must focus on helping students to better understand their goals and to guide them in their graduate school/career choices. In doing so, pre-law advising becomes a bit less about working with students who have already made the choice to apply to law school and a bit more about working with students who have expressed an interest in a law or law-related career.

Pre-Law Advising in a Nutshell

At its most basic level of engagement, pre-law advising is quite easy. Pre-law advisors answer questions about the LSAT ("no, you should not just 'take it and see how you do'"), LSAC ("yes, they want an official transcript from every school at which you've earned or attempted to earn college credit"), and the U.S. News and World Report law school rankings ("yes, lots of people rely on them, but you need to understand their flaws and shortcomings—let's discuss this"). Detailed information on these and other issues is readily available from a number of sources including the Pre-Law Advisors National Council (PLANC) and the various regional associations of pre-law advisors (collectively, the "APLAs"):

PLANC

NAPLA (Northeast)

MAPLA (Midwest)

SAPLA (Southern)

SWAPLA (Southwest)

WAPLA (Western)

PCAPLA (Pacific Coast)

Crucial for any pre-law advisor is NAPLA's *Pre-Law Advising Handbook*, PLANC's *Roles and Responsibilities of Pre-Law Advisors*, and PLANC's Pre-Law Advisors listserv. In addition, PLANC holds a conference once every four years at which new and veteran pre-law advisors meet to share knowledge and advice. Each of the APLAs holds a similar, but smaller, conference yearly. Finally, there are numerous books (both good and bad) on topics such as law and law-related careers, gaining admission to law school (including LSAT preparation), and success in law school. I've created publicly available Amazon.com lists of some of these titles under three general topic headings:

Career exploration and law school admissions

LSAT prep

Law school success

The Changing Landscape and the Changing Nature of Advising

As I discussed in the introduction, the landscape pre-law advisors (and their students) confront has changed dramatically over the last nine years. Much of this change can be traced in some way to the financial crisis of 2007-2008 and the ensuing economic recession. For example, the increasing 1L enrollments from 2006-2010 can be traced to a shared logic among college graduates of the time, "I'll go to law school and 'wait out' the bad economy/bad job market."

Now, however, that logic has resulted in a glut of law school graduates. In 2009, three years after those 2006 1Ls started, 44,004 of them graduated. The number of graduating law students has gone up since, topping out at 46,478 in 2013 (ABA n.d.). In other words, three years after each aggre-

(Continued on page 19)

gate 1L cohort began, approximately 90% of them graduated. Yet, these students' academic success did not necessarily translate to job market success, and a few horror stories made their way into the media spotlight (see e.g. Segal 2011, Weiss 2010). After the 2010 1L cohort graduated in 2013, only 57% of them held a full-time, long-term job for which bar passage was required (measured 9 months after graduation). Another 13.6% held full-time, long-term jobs for which a law degree was considered an "advantage." To be fair, these numbers were better in 2013 than they were in 2011 (54.9% and 8.1%, respectively), but it is unclear how they compare to years prior to 2011 or how much higher they might go in the future. In 2011 the ABA changed its data collection procedures (see ABA 2012), and media reports differ with regard to what the future holds (compare Weissman 2014 with Weissman 2013). Meanwhile, the National Association of Law Placement (NALP) continues to report data based only on survey respondents for whom employment information is known, a practice that has also been called into question at individual schools (see Efrati 2007). Figure 2 shows the NALP data for "percent employed—any job" and "percent employed—bar passage required job" categories. Even a cursory glance at the figure provides a sobering picture. Perhaps even more sobering for many prospective law students is the now famous bi-modal salary distribution curve for entry-level legal salaries (e.g. Henderson 2012).

Figure 2: Law School Graduate Employment Rates (1984-2013)

The upshot of all of the changes has been criticism by some (see e.g. Campos 2012, Tamanaha 2012), support from others (see e.g. Chemerinsky and Menkel-Meadow 2014, Mitchell 2012), and a detailed report on the future of legal education by an ABA task force (ABA 2014). But, what does all of this change and uncertainty mean for how pre-law advisors go about their job? In what follows, I want to suggest two key changes, list some key questions for students that I think pre-law advisors can adopt that related to this change, and provide some rationale for these suggestions.

Change #1: Engage pre-law students early on to enable them to explore their interests and understand possible career options. Thus, when I talk with freshman, sophomore, and even junior students, I find myself regularly asking questions like:

- Tell me why you are interested in law/law-related career
- Tell me about your study habits/writing ability/grades
- What classes have you taken (are you planning to take) to investigate this interest?
- What co-curricular activities/experiences have you had (are you planning to do) to investigate this interest?
- Who else (besides me) have you spoken with about your interest?
- Do you have a sense of a particular area of law you are interested in? Why? Do you know what a "day in the life" of a lawyer doing that entails?
- Have you considered other career paths that might involve or relate to your interests?
- Which of the following scenarios would you prefer?

  (a) working with an individual to correct the wrong/harm done to him or her

  (b) working on policy issues/change that would be broadly applied to a class of individuals
- Can you identify individuals whose careers you wish you could have? If yes, can you determine what education and experience they have and how that affected their career?

My goal in asking these questions is to push the student to articulate his or her interests and the reason(s) he or she has those interests. This conversation enables me to tailor the advice I'm giving, help the student accurately assess his or her academic abilities, and highlight for the student alternatives he or she may have not yet considered. In short, pre-law advisors do their students a disservice if they simply accept a student's stated interest in law and plan to attend law school without exploring with the student the motivations and interests underlying that plan. Students too frequently as-

(Continued on page 20)

sume because their interests involve "law" they must, ipso facto, go to law school. But, in a changing landscape of ever escalating law school costs and uncertain job/salary prospects, that assumption can be a costly one. As Jonathan Chausovsky recently pointed out in an email to the LawCourt listserv (October 8, 2014), an in depth discussion with a student about his or her interests may lead to a decision to explore public policy or public administration programs. My own discussions with students have led them to explore careers—in addition to law, like social work, policy development and analysis, and public administration—that have (or can have) a connection to law but which do not require a law degree.

Relatedly, these questions often enable me to determine if a student's plan to attend law school boils down to nothing more than a desire to avoid finding a job or, more importantly, to avoid engaging in any kind of introspective process that might help the student fully understand his or her interests and goals. Instead, the student often plans to attend law school because "its good training for anything I might want to do." The problem, of course, is that these same students conveniently ignore the fact that once they finish law school they may be left confronting the same "now what?" questions they are attempting to avoid, and with additional student loan debt affecting that decision. In my view, law school is *good training* for lots of things other than being a lawyer, but many students would be better off asking whether law school is *necessary training* for those things. In this changing landscape, law school has simply become too costly to use it as training mechanism for a career that may not require it or as an avoidance mechanism for a student unwilling to thoroughly explore his or her career interests.

Change #2: Engage law-school bound students to assist them in understanding of the realities of law school, the job market, and the practice of law. Thus, when I meet with senior students, I find myself asking questions like:

- What criteria did you use to generate the list of schools to which you are applying?
- How many schools are on your list?
- Why did you reject other (similar) schools?
- What moot court/legal clinic/externship/work opportunities during law school will be available to you? Are those opportunities competitive?
- How are you planning to finance your law school education?
- If through loans, do you have a sense of what you overall student loan debt will be upon your graduation from law school? Do you have a sense of what the monthly loan payment will be for a debt of that amount? Do you have sense of what your monthly take-home pay will need to service that loan and pay your living expenses like rent/mortgage, utilities, and food?
- Do you have a sense of job prospects you face and your likely salary? What kind of information about these things have you obtained from each law school's career services office? To the extent they have provided data/numbers to you, do you understand how they've collected and calculated that information?

My goal in asking these questions is a straightforward aim to ensure the student enters law school with "eyes wide open" to what the law school expects and what he or she can expect the law school to provide.

To be clear, I'm not suggesting that law school as a bad choice for a student. In fact, one recent paper has suggested that law school is a good—at least from a career earnings perspective (Simkovic and McIntyre 2013). I am merely suggesting that pre-law advisors do the best job when they help students identify their interests and goals, whatever they might be, and then assist them in making *informed* decisions about their future. If that decision involves law school, great, we can help with that! If that decision doesn't involve law school, great, we can guide the student to the appropriate resources.

References

American Bar Association. n.d. "Enrollment and Degrees Awarded: 1963-2012 Academic Years." (n.d.)(available at: http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/enrollment_degrees_awarded.authcheckdam.pdf)

American Bar Association. 2012. "Updated Statement of the ABA's Section of Legal Education and Admissions to the Bar Regarding Collection of New Job Placement Data." (March 15, 2012)(available at: http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/2012_3_15_updated_statement_regarding_employment_data.authcheckdam.pdf).

American Bar Association. 2014. "Report and Recommendations American Bar Assocation Task Force on the Future of Legal Education." (available at: http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf).

Campos, Paul. 2012. *Don't Go To Law School (Unless): A Law Professor's Inside Guide to Maximizing Opportunity and Minimizing Risk.* CreateSpace Independent Publishing Platform.

(Continued on page 21)

Chemerinsky, Erwin, and Carrie Menkel-Meadow. 2014. "Don't Skimp on Legal Training." *New York Times* (April 14, 2012)(available at: http://www.nytimes.com/2014/04/15/opinion/dont-skimp-on-legal-training.html)

Efrati, Amir. 2007. "Hard Case: Job Market Wanes for U.S. Lawyers." *Wall Street Journal Online* (September 24, 2007)(available at: http://online.wsj.com/articles/SB119040786780835602).

Erb, Kelly Phillips. 2013. "Attorney Offers Students 1,000 Reasons to Skip Law School." *Forbes* (December 22, 2013)(available at: http://www.forbes.com/sites/kellyphillipserb/2013/12/22/attorney-offers-students-1000-reasons-to-skip-law-school/).

Henderson, William. 2012. "A Picture of the Melting Right Mode." (July 15, 2012)(available at: http://lawprofessors.typepad.com/legalwhiteboard/2012/07/a-picture-of-the-melting-right-mode.html).

Mitchell, Lawrence E. 2012. "Law School is Worth the Money." *New York Times* (November 28, 2012)(available at: http://www.nytimes.com/2012/11/29/opinion/law-school-is-worth-the-money.html)

Segal, David. 2011. "Is Law School a Losing Game?" *New York Times* (January 8, 2011)(available at: http://www.nytimes.com/2011/01/09/business/09law.html).

Sloan, Karen. 2014. "Law School Enrollment Slump Continues." *National Law Journal* (July 21, 2014) (available at: http://www.nationallawjournal.com/id=1202663837843/Enrollment-Slump-Continues).

Simkovic, Michael, and Frank McIntyre. 2013. "The Economic Value of a Law Degree." (available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2250585).
Tamanaha, Brian Z. 2012. *Failing Law Schools.* Chicago: University of Chicago Press.

Weiss, Debra Cassens. 2010. "Jobless Boston College 3L Asks for a Refund." ABA Journal (October 21, 2010)(available at: http://www.abajournal.com/news/article/jobless_boston_college_3l_asks_for_a_refund/).

Weissman, Jordan. 2013. "The Jobs Crisis at Our Best Law Schools is Much, Much Worse Than You Think." *The Atlantic* (April 9, 2013)(available at: http://www.theatlantic.com/business/archive/2013/04/the-jobs-crisis-at-our-best-law-schools-is-much-much-worse-than-you-think/274795/).

Weissman, Jordan 2014. "Now is a Great Time to Apply to Law School." *Slate* (June 30, 2014)(available at: http://www.slate.com/articles/business/moneybox/2014/06/why_now_is_a_great_time_to_go_to_law_school_part_2.html).

The State of Pre-Law Advising in the Post-Recession Age

Charley Jacobs (St. Norbert College)

charles.jacobs@snc.edu

In July 2013, the Pew Research Religion and Public Life Project conducted a survey to gauge the perception of various professions by the public, asking how much members of ten prominent occupations contribute to the well-being of society. Leading the list was the military. Nearly 80 percent of respondents indicated that members of the armed forces contribute "a lot," narrowly eclipsing teachers for the top spot. Physicians, scientists and engineers rounded out the top five places on the list. Ranking dead last were lawyers, who were appraised as major contributors to the community by just 18 percent of those who responded. More than one-in-three indicated that lawyers contribute little or nothing to society. [1] Pew's research appears to not be anomalous. In surveys conducted over nearly four decades by Gallup, it was rare for more than a quarter of the public to rank the legal profession as honest or ethical. [2]

Oddly, the low esteem with which lawyers are held does not seem to discourage students from entertaining law as a career. As a pre-law advisor at a small liberal arts college, I advise dozens of students each year who are either unaware, or unconcerned, about the public's low opinion of attorneys. Most students seem to maintain two firm beliefs. First is that there is prestige in the legal profession. The second is that the practice of law is lucrative. The first, as the data suggest, may not have been true for decades. The latter, however, was a reality until the recent past. In the aftermath of the Great Recession that began in 2008, not only have wages for newly minted lawyers dropped considerably, but the number of available legal position has also shrunk. According to data reported by the National Association for Law Placement (NALP), the median starting salary for new law school graduates fell from $72,000 in 2008 and 2009 to $60,000 in 2011. For attorneys working in law firms, annual pay dropped from a median of $130,000 in 2009 to $85,000 in 2011. And while salaries have increased slightly over the last two years, the sector has not yet seen a complete rebound. Also, NALP reports that unemployment for new graduates continues at rates not seen for a quarter of a century. [3]

This malaise in the legal marketplace has created new demands on those who serve as pre-law advisors. In the past, it was easy to encourage interested students to attend law school. Even if students discovered that they preferred not to practice law, there were numerous jobs open and available to those holding a juris doctorate. Generally high salaries also meant that the cost of attending law school would not result in a lifetime of debt for

(Continued on page 22)

graduates. In the current environment, neither one of these assumptions is necessarily true. Many law school graduates fail to find work in a position that requires a J.D. or bar passage, or find only low-paying legal work. As a result, it is incumbent upon advisors to engage students in an open and frank discussion regarding their decisions and to help screen students who may not be successful candidates for law school.

As the only pre-law advisor on our campus, I counsel virtually every student that hopes to attend law school. According to colleagues at other institutions who serve in a similar capacity as I, the encounters I have with students seem fairly typical. Generally, students can be classified into one of two categories. The first are those who have always aspired to attend law school and see this vocation as the only possible career path. The second are students who stumble into pre-law almost by default. In some cases, a previous major or potential career path direction was no longer viable. For others, the law appears to be a safe and straightforward approach to social and economic success. Most students, however, don't have a clear idea of what the study or practice of law entail. To help students better grasp what law school and the profession demand, I encourage student to complete our campus Pre-Law Certificate. This program is neither a major nor a minor but instead a six-course curriculum that exposes students to the law and related subjects that help build skills related to success on the Law School Admissions Test (LSAT). Students must complete courses in the law, such as traditional constitutional law classes offered in political science or business law, economics, communications, and philosophy. For students whose exposure to the legal profession is limited to what they see on television, tackling the rigors of formal logic and dense U.S. Supreme Court doctrine is often enough to disabuse them of their desire to head to law school.

For those who remain interested in law school, I encourage them to dive into the significant literature that explores the law school experience and the industry of legal education. An example of the former includes Scott Turow's "One L," a dated but still illuminating recounting of the author's first year at Harvard Law.[4] In the latter category, I point students to more contemporary literature that critically examines the delivery of legal education in America and the struggles for graduates entering the marketplace. Two recent works include Brian Z. Tamanaha's "Failing Law Schools"[5] and "The Lawyer Bubble: A Profession in Crises"[6] penned by Steven J. Harper. While both may paint too bleak a picture than is deserved, students will be exposed to the dirty secrets of the business of legal education and the precarious prospects for those who intend on entering law school.

For students who remain convinced that the law is their calling, there exists a silver lining among the dark clouds. The dire forecasts regarding the legal profession have scared away so many candidates that many law schools are struggling to fill their classes. As a result, current students have the opportunity to win rather sizable grants-in-aid if they adopt a strategic approach to the application process. Students who have grade point averages and LSAT scores that exceed a law school's interquartile range for both categories may invite significant interest from schools hoping to fill out its entering class with high-quality students. I will note that there is often significant resistance from students who may insist on matriculating at the school they perceive to be the highest ranked. What advisors need to stress is that the quality difference between, as an example, the school ranked 30th and the school ranked 60th in the nation is insignificant when compared to the difference in the aid granted by each school. In an era when the average law school debt exceeds $140,000, leveraging the problems faced by law schools in the post-recession era may be very fruitful. [7]

There is no simple or stock approach to advising those interested in a legal education, especially when the decision to attend may put students in financial jeopardy for decades to come. But an open and frank discussion may produce better outcomes for both students and faculty advisors.

1.http://www.pewforum.org/2013/07/11/public-esteem-for-military-still-high/. Accessed October 2, 2014.

2.http://www.gallup.com/poll/1654/honesty-ethics-professions.aspx#3. Accessed October 2, 2014.

3. Employment For The Class Of 2013--Selected Findings: For Second Year In A Row New Grads Find More Jobs, Starting Salaries Rise--But Overall Unemployment Rate Rises With Historically Large Graduating Class. Washington, D.C.: National Association for Law Placement, 2014 http://www.nalp.org/uploads/Classof2013SelectedFindings.pdf. Accessed October 2, 2014.

4. Turow, Scott. *One L: The Turbulent True Story of a First Year at Harvard Law School*. New York: Penguin Books, 2010.

5. Tananaha, Brian Z. *Failing Law Schools*. Chicago: The University of Chicago Press, 2012.

6. Harper, Steven J. *The Lawyer Bubble: A Profession in Crisis*. New York: Basic Books, 2013.

7. Delise, Jason. *The Graduate Student Debt Review: The State of Graduate Student Borrowing*. New America, 2014. p. 9. http://newamerica.net/sites/newamerica.net/files/policydocs/GradStudentDebtReview-Delisle-Final.pdf. Accessed October 2, 2014.

Effective Pre-Law Advising

Scott Peters
University of Northern Iowa
scott.peters@uni.edu

Good advising encourages students to think hard about their educational and career goals, guides or prods them toward those goals, and mentors them along the way. It is teaching, just as important as the teaching we do in the classroom. Excellent advising identifies student interests, helps students achieve their academic and career goals, and, through good communication about the student experience, aids the development of curriculum. Good advisors help students graduate in a timely manner, which in turn can help reduce student debt loads and bolster student recruitment and retention. The longer I teach the more I realize that good advising is essential to my goals as a teacher and to the larger objectives of my department and university.

For many, the words "academic advising" conjure images of lines of students out the door waiting to talk about registering for classes. But it is a mistake to view registration as the main purpose of advising. Rather, regular registration meetings should be viewed as opportunities to engage with students about their goals and aspirations as well about the challenges they're facing. My department does not use registration holds, so I cannot force students to visit me regularly. Because of this, I have to communicate to my advisees the benefits of coming to see me and the pitfalls they may encounter if they fail to do so. I don't get all of them through the door, but every year I've been a little more successful than I was the year before. I use a variety of tactics to get them to show up. First, I email them each semester at registration time. Over the years, I've found that telling them that I "expect" them to make an appointment increases the number of students who respond. I also pitch the appointments as a chance to discuss staying on track for graduation and preparing for their careers after graduation. Students have a lot of anxiety over what happens after graduation and they're often reluctant to talk about it, as if not talking about it will allow them to remain students forever and avoid the dreaded real world. When I raise the issue, however, we have productive conversations. I counsel students to give serious thought to pursuing opportunities like internships or study abroad experiences that will vanish upon graduation. Increasingly, I also push them to consider classes that will develop valuable career skill sets, such as statistics and GIS.

To facilitate the registration portion of these appointments, I create special appointment slots within Google Calendar that students can sign up for. That helps me allocate my time more effectively and reserve my office hours for students in my classes. Finally, because neither the student information system nor the plan of study software adopted by my university are very user-friendly, I create a shared Google doc for each student. Before we meet, students edit the document to indicate their desired courses for the coming semester. As we talk, I plot out within the document a plan of study that will lead them to a timely graduation. The document is then there for them to refer back to as they make last minute adjustments to registration and as they plan ahead each semester.

I also have substantial prelaw advising duties which do not perfectly overlap with my academic advising. I serve as prelaw advisor for a large portion of the university, so I see many students from outside my own department. Prelaw advising, while centered around a clear objective, can actually be quite diffuse in its responsibilities and expectations. Barring personal or academic crises, my academic advisees expect to talk to me about their academic goals twice a year. Prelaw advisees, on the other hand, need regular attention through the process. This begins as early as possible within their academic careers with clear instructions about what kinds of classes they should take to prepare for law school. Once the application process nears, students typically want to check in at each step: LSAT prep, receipt of LSAT score, personal statement review, finalizing applications and, we hope, making final decisions about where to attend. Although I never turn students away, I have been able to streamline some of these visits through the devel-

(Continued on page 21)

opment of handouts and using group presentations or activities. Each year, either I or the prelaw student organization does a presentation on preparing for law school at the beginning of the school year, a workshop on personal statements midway through the fall semester, and a discussion about preparing for the LSAT in the spring semester. Getting these events on the calendar as early as possible in the academic year helps to cut down on repetitive office visits.

Of all the hats that faculty members wear, academic advising is among the least recognized or rewarded. Advising often slips between the cracks in the teaching-scholarship-service model of structuring and rewarding faculty work. In my experience, universities seldom make available the same levels of resources or support for advising activities as they do for scholarship or classroom teaching. As a consequence, I think we tend to pay a lot less attention to enhancing our advising skill sets. This is a shame, because academic advising should reside at the center of our role as teachers. The payoffs to good advising are huge, both in terms of enhancing student success and, in terms of promoting the institution's goals of timely graduation, student retention and career development. I've also found that it helps me become a better classroom teacher and helps me form deeper, more lasting relationships with students. While the value of those relationships may be less tangible, they are no less important.

Resources:

A video tutorial on using appointment slots in Google, http://www.youtube.com/watch?v=YJ97hx8-mdA This feature of Google calendar may only be available if your campus uses Google Apps.

The National Academic Advising Association (NACADA) makes available a lot of useful resources at its website: http://www.nacada.ksu.edu/Resources.aspx . I especially recommend the Pocket Guides available through the store, particularly the faculty guide and the Academic Advising Syllabus.

Pre-law advisors may want to join the Pre-law Advisors National Council or one of the regional associations of pre-law advisors, which are listed at http://planc.org/. The PLANC listserv can also be a valuable resource. To join the PLANC Pre-Law Advisors listserv, email: planc-pre-law-advisors+subscribe@googlegroups.com. You will receive a confirmation email after joining the Google Group.

Tech Notes

Each edition we will highlight an interesting and useful web page, "app" software, or other form of technology that may be helpful in section members' teaching or research.
We welcome reviews and suggestions from section members about programs used in the past that were particularly beneficial and may be of interest to section members.

Camtasia

(http://www.techsmith.com/camtasia.htm)

This powerful software, available for both PC ($179, with educational discount) and (enlightened) Mac users ($79, with educational discount), allows you to record, edit, and export your screen content (and audio, too!) to students, colleagues, research assistants, and everyone in between.

Run it during your lectures and post screencasts afterwards so that you *never* again have to answer the question "What did I miss in class today?"

Camtasia also provides a great way to introduce multiple RAs to a research assignment without necessitating multiple individual meetings or pages of written text. Content can be exported in a number of file formats. Tech support is U.S.-based and quick to respond.

Books to Watch For

Drew Lanier, Editor
University of Central Florida
drew.lanier@ucf.edu

Melinda Gann Hall (Michigan State University) has published *Attacking Judges: How Campaign Advertising Influences State Supreme Court Elections* (Stanford University Press, ISBN 978-0-8047-8795-6). "Nasty below-the-belt campaigns, mudslinging, and character attacks have become part and parcel of today's election politics, and judicial elections are no exception. Juxtaposing theories and methods from political science scholarship on legislative and executive elections and normative theories of judging and courts forwarded by judicial reform advocates and the legal community, *Attacking Judges* investigates the impact of televised campaign advertising, including harsh attacks, in state supreme court elections from 2002 through 2008. The primary focus centers on whether campaign negativity has damaging consequences for two key aspects of representative democracy: the vote shares of justices seeking reelection and the propensity for state electorates to vote. *Attacking Judges* also provides rich descriptions of state supreme court elections over the past several decades and the content and scope of televised campaigns and their sponsors in recent election cycles. Countering the prevailing wisdom that campaign politics necessarily has deleterious consequences for judges, voters, and state judiciaries, *Attacking Judges* provides new revelations about how attack ads influence public engagement and the incumbency advantage and how partisan and nonpartisan elections work in ways not envisioned by judicial reformers. Ultimately, *Attacking Judges* is a testament to the power of institutions in American politics, the capacity for comparative state research to inform major disciplinary debates, and the value of empirical political science to matters of practical politics, including the controversy over electing judges."

Ran Hirschl (University of Toronto) has published *Comparative Matters: The Renaissance of Comparative Constitutional Law* (Oxford University Press, ISBN 978-0-19-871451-4). "Comparative study has emerged as the new frontier of constitutional law scholarship as well as an important aspect of constitutional adjudication. Increasingly, jurists, scholars, and constitution drafters worldwide are accepting that "we are all comparativists now." And yet, despite this tremendous renaissance, the 'comparative' aspect of the enterprise, as a method and a project, remains under-theorized and blurry. Fundamental questions concerning the very meaning and purpose of comparative constitutional inquiry, and how it is to be undertaken, are seldom asked, let alone answered. In this path-breaking book, Hirschl addresses this gap by charting the intellectual history and analytical underpinnings of comparative constitutional inquiry, probing the various types, aims, and methodologies of engagement with the constitutive laws of others through the ages, and exploring how and why comparative constitutional inquiry has been and ought to be pursued by academics and jurists worldwide. Through an extensive exploration of comparative constitutional endeavors past and present, near and far, Hirschl shows how attitudes towards engagement with the constitutive laws of others reflect tensions between particularism and universalism as well as competing visions of who "we" are as a political community. Drawing on insights from social theory, religion, history, political science and public law, Hirschl argues for an interdisciplinary approach to comparative constitutionalism that is methodologically and substantively preferable to merely doctrinal accounts. The future of comparative constitutional studies, he contends, lies in relaxing the sharp divide between constitutional law and the social sciences. *Comparative Matters* makes a unique and welcome contribution to the comparative study of constitutions and constitutionalism, sharpening our understanding of the historical development, political parameters, epistemology and methodologies of one of the most intellectually vibrant areas in contemporary legal scholarship."

Kirk A. Randazzo (University of South Carolina) and **Richard W. Waterman** (University of Kentucky) have

(Continued on page 25)

co-authored *Checking the Courts: Law, Ideology, and Contingent Discretion*. (SUNY Press, ISBN 978-1-4384-5287-6). "How does the language of legislative statutes affect judicial behavior? Scholars of the judiciary have rarely studied this question despite statutes being, theoretically, the primary opportunity for legislatures to ensure that those individuals who interpret the law will follow their preferences. In *Checking the Courts*, Randazzo and Waterman offer a model that integrates ideological and legal factors through an empirical measure of statutory discretion. The model is tested across multiple judicial institutions, at both the federal and state levels, and it reveals that judges are influenced by the levels of discretion afforded in the legislative statutes. In those cases where lawmakers have clear policy preferences, legislation encourages judges to strictly interpret the plain meaning of the law. Conversely, if policy preferences are unclear, legislation leaves open the possibility that judges will make decisions based on their own ideological policy preferences. *Checking the Courts* thus provides [scholars of the courts] with a better understanding of the dynamic interplay between law and ideology."

ANNOUNCEMENTS

Call for Nominations—Section Officers and Section Awards

Section Officers

New officers will be elected at the Section's business meeting during the 2015 annual meeting. In addition to nominations for a Chair-Elect (2016-17) and Section Secretary (2015-17), we are seeking nominations for three members to serve on the Executive Committee (2015-17).

Nominations or self-nominations should be submitted before February 15, 2015, to the chair and members of the nominating committee:

Chair: Chuck Epp, University of Kansas
chuckepp@ku.edu

Tom Keck, Syracuse University
tmkeck@maxwell.syr.edu

Virginia Hettinger, University of Connecticut
virginia.hettinger@uconn.edu

Kevin McMahon, Trinity College
Kevin.McMahon.1@trincoll.edu

Amy Steigerwalt, Georgia State University
asteigerwalt@gsu.edu

Section Awards

1. Lifetime Achievement Award

Given for a lifetime of significant scholarship, teaching and service to the Law and Courts field. Nominees must be political scientists who are at least 65 years of age or who have been active in the field for at least 25 years. Nominations from previous competitions will be carried forward to the current year's competition. The committee will retain nominations for 3 years, but you are invited to re-nominate an individual and renew the materials in the file during each cycle. Nominations may be made by any member of the Section and should consist of a statement outlining the contributions of the nominee and, if possible, a copy of the nominee's vitae. Previous award recipients can be found here: http://www.apsanet.org/content.asp?admin=Y&contentid=244.

Nominations should be submitted before February 15, 2015, to the chair and members of the selection committee:

Chair: Melinda Gann Hall, Michigan State University,
hallme@msu.edu

Charles Lamb, SUNY-Buffalo
clamb@buffalo.edu

Traci Burch at Northwestern
t-burch@northwestern.edu

Chris Zorn, Penn. State University
zorn@psu.edu

Ran Hirschl, University of Toronto
Ran.hirschl@utoronto.ca

2. Best Graduate Student Paper Award

This award (formerly the CQ Press Award) is given annually for the best paper in the field of law and courts written by a graduate student. To be eligible, the nominated paper must have been written by a full-time graduate student. Single- and co-authored papers are eligible. In the case of co-authored papers, each author must have been a full-time graduate student at the time the paper was written. Submitted papers may have been written for any purpose (including papers written for seminar, scholarly meetings, and for potential publication in academic journals). This is NOT, however, a dissertation or thesis prize.* Papers may be nominated by faculty members or by the students themselves. The papers must have been written during the twelve months previous to the nomination deadline.

(continued on page 27)

Previous award recipients can be found here: http://www.apsanet.org/content.asp?admin=Y&contentid=244.

Nominations should be submitted before February 15, 2015, to the chair and members of the selection committee:

Chair: Amanda Hollis-Brusky
Amanda.Hollis-Brusky@pomona.edu

Lauren McCarthy, University of Massachusetts,
mccarthy@legal.umass.edu

William Blake, Indiana Univ.-Purdue Univ. Indianapolis,
lwdblake@iupui.edu

Simon Zschirnt, Texas A&M International University
simon.zschirnt@tamiu.edu

Susan Burgess, Ohio University
burgess@ohio.edu

* Note: The Corwin Prize is a dissertation prize for the field of public law, and that is administered by the APSA. Information on that prize can be found here: http://www.apsanet.org/content.asp?contentid=365).

3. C. Herman Pritchett Award for Best Book

Given annually to the best book on law and courts published in the previous year (2014). Previous award recipients can be found here: http://www.apsanet.org/content.asp?admin=Y&contentid=244.

Please note that case books and edited books are not eligible for consideration. Books may be nominated by publishers or by members of the Section.

To be considered for this year's competition, a nomination letter and copy of the book must be submitted prior to February 15, 2015, to the chair and to each member of the selection committee:

Keith E. Whittington (chair)
Dept. of Politics, Corwin Hall
Princeton University
Princeton, NJ 08544

Pamela Corley
Dept. of Political Science
Southern Methodist University
3300 University Boulevard
Carr Collins Hall, 2nd Floor
Dallas, TX 75205

Jim Gibson
Dept. of Political Science
Washington University
Campus Box 1063
One Brookings Dr.
St. Louis, MO 63130

Tom Ginsburg
University of Chicago Law School
1111 E. 60th St.
Chicago, IL 60637

Sanford Levinson
University of Texas School of Law
727 East Dean Keeton St.
Austin, TX 78705

4. Best Conference Paper Award

This award (formerly the American Judicature Society Award) is given annually for the best paper on law and courts presented at the previous year's annual meetings of the American, International, or regional political science associations. Single- and co-authored papers, written by political scientists, are eligible. Papers may be nominated by any member of the Section. Previous award recipients can be found here: http://www.apsanet.org/content.asp?admin=Y&contentid=244.

Nominations should be submitted before February 15, 2015, to the chair and members of the selection committee:

Chair: Sean Farhang, University of Cal, Berkeley
farhang@berkeley.edu

Ken Kersch, Boston College
kenneth.kersch.1@bc.edu

Alison Gash, University of Oregon
gash@uoregon.edu

Nancy Kassop, SUNY New Paltz
kassopn@newpaltz.edu

Jeff Staton, Emory University
jeffrey.staton@emory.edu

5. Lasting Contribution Award

Awarded annually to a book or journal article, 10 years old or older, that has made a lasting impression on the field of law and courts. Only books and articles written by political scientists are eligible; single-authored works produced by winners of the Lifetime Achievement Award are not eligible. Any member of the Section may submit a nomination. The nomination should include a statement outlining the nature of the contribution of the nominated work. Previous award recipients can be found here: http://www.apsanet.org/content.asp?admin=Y&contentid=244.

To be considered for this year's competition, a nomination letter and copy of the book or article must be submitted prior

to February 15, 2015, to the chair and members of the selection committee:

Chair: David Yalof, University of Connecticut
david.yalof@uconn.edu

Malcom Feeley, University of California Berkeley,
mfeeley@law.berkeley.edu

David O'Brien, University of Virginia
dmo2y@virginia.edu

Karen Orren, University of California Los Angeles
orren@ucla.edu

Susan Haire, University of Georgia,
cmshaire@uga.edu

6. Best Journal Article Award

Given annually to the best journal article in the field of law and courts written by a political scientist and published during the previous calendar year (2014). Articles published in all refereed journals and in law reviews are eligible, but book reviews, review essays, and chapters published in edited volumes are not eligible. Journal editors and members of the section may nominate articles. Previous award recipients can be found here:
http://www.apsanet.org/content.asp?admin=Y&contentid=244.

Nominations should be submitted before February 15, 2015, papers should be sent (as a PDF, electronically) to the chair and members of the selection committee:

Chair: Tom Clark, Emory University
TCLARK7@emory.edu

James Rogers, Texas A&M University
james-r-rogers@pols.tamu.edu

Emily Zackin, John Hopkins University
ezackin1@jhu.edu

John Dinan, Wake Forest University
dinanjj@wfu.edu

Rachel Cichowski, University of Washington
rcichows@u.washington.edu

7. Teaching and Mentoring Award

Given annually to recognize innovative teaching and instructional methods and materials in law and courts. Examples of innovations that might be recognized by this award include (but are not limited to) outstanding textbooks, websites, classroom exercises, syllabi, or other devices designed to enhance the transmission of knowledge about law and courts to undergraduate or graduate students. Any member of the section may make a nomination for the Teaching and Mentoring Award by submitting a statement identifying the nominee and outlining the nature of their innovation and the contribution it makes to achieving the purposes of the award (e-mail attachments, in the form of .pdf files, are acceptable). The Teaching and Mentoring Award is supported by a generous contribution from the Division for Public Education of the American Bar Association. Previous award recipients can be found here:
http://www.apsanet.org/content.asp?admin=Y&contentid=244.

Nominations should be submitted before February 15, 2015, to the chair and members of the selection committee:

Chair: Lisa Hilbink, University of Minnesota
hilbink@UMN.EDU

Mike Salamone, Washington State University
michael.salamone@wsu.edu

Lori Hausegger, Boise State University
lorihausegger@boisestate.edu

Lisa Holmes, University of Vermont
Lisa.M.Holmes@uvm.edu

Michael Nelson, Penn State University
mjn15@psu.edu

8. Law and Courts Service Award

Given annually to recognize service to the Law & Courts Section in the literal sense, as in service on committees and in leadership positions, as well as service within the Section, as in service to the profession within the field of law and courts in the form of archiving data, promoting infrastructure, representing the profession in the media, etc. Previous award recipients can be found here:
http://www.apsanet.org/content.asp?admin=Y&contentid=244.

Nominations should be submitted before February 15, 2015, to the chair and members of the selection committee:

Chair: Michael Giles, Emory University,
mgiles@emory.edu

Sarah Benesh, University of Wisconsin Milwaukee
sbenesh@uwm.edu

Chris Bonneau, University of Pittsburgh
cwbonneau@gmail.com

Nancy Maveety, Tulane University
nance@tulane.edu

Lynn Mather, SUNY Buffalo
lmather@buffalo.edu