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Newsletter
of the
Law & Courts
Section
of the
American
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Science
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From the Section Chair

Cornell Clayton
Washington State University
cwclayton@wsu.edu

Spring is a busy time of year. As you read this newsletter, many of you are no doubt engaged in hiring new faculty colleagues, recruiting graduate students, or putting final touches on papers to be presented at spring professional conferences. If you are like me, spring break is a welcome respite but one that goes by all too quickly, and then there is the mad dash toward the end of the academic year and graduation.

One thing I hope you will find time to do during your spring break is read through this issue of the newsletter. As usual, Todd Collins has done a wonderful job assembling a group of articles with something that will appeal to all readers.

In this issue of the newsletter it is also my pleasure to announce **the winners of this year's section awards, which recognize individuals chosen by their colleagues for excellence in research, teaching and service.** As in the past years, the awardees are a distinguished and deserving group:

Lifetime Achievement: Donald Songer (University of South Carolina)

C. Herman Pritchett Award for Best Book:

Melinda Gann Hall (Michigan State University), *Attacking Judges: How Campaign Advertising Influences State Supreme Court Elections* (Stanford University Press 2014)

Co-Winner

Ran Hirschl (University of Toronto), *Comparative Matters: The Renaissance of Comparative Constitutional Law* (Oxford University Press 2014)

Lasting Contribution: Chuck Epp (University of Kansas), *The Rights Revolution* (Chicago 1998)

Best Journal Article:

Dino P. Christenson and David M. Glick (Boston University), "Chief Justice Roberts's Health Care Decision Disrobed: The Microfoundations of the Supreme Court's Legitimacy," *American Journal of Political Science*

Co-Winner

R. Daniel Kelemen (Rutgers University) and Terrence K. Teo (Brown University), "Law, Focal Points, and Fiscal Discipline in the United States and the European Union," *American Political Sci-*

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Law and Courts Newsletter

Editor

Todd Collins
Western Carolina University
E-Mail: tcollins@email.wcu.edu

Assistant Editor

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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). 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.

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.

Instructions to
Contributors

Best Conference Paper:

Rebecca Hamlin (Grinnell College), "The Human Rights Act and the New Immigration Politics in the United Kingdom" (presented at the annual meeting of the American Political Science Association)

Co-Winner

Benjamin Bishin (UC Riverside), Thomas Hayes (University of Connecticut), Matthew Incantalupo (Princeton University), and Charles Anthony Smith (UC Irvine), "Opinion Backlash and Public Attitudes: Are Political Advances in Gay Rights Counterproductive?" (presented at the annual meeting of the Midwest Political Science Association)

Best Graduate Student Paper:

Ali S. Masood and Monica E. Lineberger (University of South Carolina), "United Kingdom, United Courts? The Hierarchical Impact of Precedent in the British Judiciary" (presented at the annual meeting of the Southern Political Science Association 2014)

Teaching and Mentoring: Julie Novkov (SUNY-Albany)

Section Service: Art Ward (North Illinois University)

I hope you all will join with me in congratulating this year's winners and I encourage you to attend the business meeting in San Francisco where we will formally present their awards. We will also be electing new section officers at the business meeting in the fall. The nominating committee has proposed the following slate of candidates:

Chair-elect: Tim Johnson (University of Minnesota)

Secretary: Rachel Cichowski (University of Washington)

Executive Committee Members: Mark Hurwitz (Western Michigan University), Rebecca Hamlin (Grinnell College), and Jeb Barnes (University of Southern California)

Let me thank the many individuals who served this year on the award selection committees and the section officers nomi-

nating committee. Service on these groups is a time-consuming job and I am amazed at how conscientious our members are and how generous with their time in serving the good of the section.

In the remainder of this issue of the newsletter there are several articles I wish to call to your attention. Robert Carp (University of Houston) and Kenneth Manning (University of Massachusetts-Dartmouth) announce the public archiving of the Carp-Manning U. S. District Court Database later this year at the ICPSR. Obviously, this 112,000-plus case database of U.S. district court decisions, spanning cases 1932 to 2012, will be an important resource for law and courts scholarship.

Also in this issue, Justin Wedeking and Anne Lippert, both at University of Kentucky, and Ryan Black (Michigan State University) highlight the advantages of using network analysis judicial politics research. Jacqueline M. Sievert (Western Carolina University) has a provocative article about how authoritarian regimes might use independent judiciaries as a source of information, allowing them to identify opposition groups and offer policy concessions that would blunt civil unrest and resistance to their rule.

For those interested in teaching and curricular matters, this issue also includes two articles about an innovative effort at Louisiana State University aimed at addressing the decline in social science undergraduate majors experienced at many universities as well as the decline in applications to law schools due to the costs of legal education. In this issue, Stacia L. Haynie, dean of Humanities and Social Sciences at LSU, and Rebecca Caire, an assistant dean, explain the thinking **behind, and challenges to, establishing a 3+3 bachelor's and juris doctor degree program** at their university.

Finally, as always, this issue of the newsletter includes other important news, such as books to watch for and other relevant information to our section membership. Enjoy!

Announcing the Archival of the Carp-Manning U.S. District Court Database

Robert A. Carp, University of Houston and Kenneth L. Manning, University of Massachusetts-Dartmouth
racarp@uh.edu / kmanning@umassd.edu



When I first began doing research in the realm of judicial politics in 1970, my primary focus was on the U.S. district courts. Much to my dismay, I realized there was no data set available to scholars which systematically recorded the published decisions of federal district court judges. Virtually all information **about the judges' decision-making** patterns was anecdotal.

It became my goal to remedy this deficiency by beginning to systematically code published decisions of federal district judges that have appeared in the *Federal Supplement*. In the

1990s, my then-graduate student, Ken Manning, joined me in the project. Today, we have compiled a database of more than 112,000 U.S. district court decisions that spans the decades from 1932 to 2012.

Judicial politics scholars all recognize the value of the U.S. Supreme Court Database, originally compiled by Harold Spaeth at Michigan State University, and the U.S. Courts of Appeals Database, originally compiled by Donald Songer at



the University of South Carolina. These databases – and subsequent additions by recognized scholars in judicial politics – have been essential to the research of hundreds of studies conducted in the field of judicial politics within political science over the past three decades. However, there is still no archived, broad-based database on the U.S. District Courts. It is our hope that our data can help fill this gap.

After spending many years compiling our data without significant grant funding, we believe it is time that others use the data to answer more questions about judicial decision-making. Thus, we would like the law and courts section to know that it is our intention to publicly archive our work later this year as the Carp-Manning U. S. District Court Database at the ICPSR so that other scholars can have unfettered access to the data for their research.

Publications utilizing this database data have included two university press books, two major textbooks for which the data served as the basis for key chapters, five doctoral dissertations, and at least 32 peer-reviewed articles in professional academic journals.

The value of this data has also been recognized by leading scholars in the field. In 2010, Nancy Maveety of Tulane University observed that "The [Carp and Manning] federal district court database, like the more well-known Spaeth/Spaeth-Benesh Supreme Court Database, is a tremendous resource for other scholars and a tremendous labor of efforts for its **authors...Judicial databases are legacies left to the field and to the practitioners of quantitative analysis research designs, and are a somewhat selfless form of value-addedness because they enrich and enable other scholars' work and the progress of the field as a whole.**"

Eliot Slotnick of Ohio State University also recognized that "**[Carp and Manning] have developed and are maintaining an important data base that will continue to allow them to explore the fundamental issues of district court behavior, on which they are acknowledged and recognized to be "the experts."**

The dataset includes coded decisions published in the *Federal Supplement*, the primary publication venue for U.S. district court rulings. Most district court rulings are not published and discussion exists in the literature about studying published versus unpublished opinions. Some have suggested that because published opinion tends to involve what Lawrence **Baum (1997) once called "hard" cases** – that is, instances in which judges have greater discretion – studying such rulings as a means of understanding and predicating judicial behavior is valuable.

Others, however, have suggested that since relatively few trial court decisions are published, drawing inferences from a

study of such decisions may be problematic. Some previous research suggests that partisan differences in published versus unpublished decisions are not significant (Rowland and Carp 1996). Our dataset cannot resolve disputes in the published versus unpublished realm. The data can, however, provide scholars with a large and widely available way to greater study judicial decision-making.

We utilized a consistent methodology in coding cases for the database. The unit of analysis in the data is the individual case. After reading each case in the *Federal Supplement*, it was determined whether or not the case should be added to the data set. If the case contained a relevant and traditional liberal-conservative dimension, the case was included. Included cases were coded within three broad categories: criminal justice cases, civil liberties and rights cases, and labor and economic regulation cases.

Within these three categories, we identified twenty-nine substantive sub-categories. Such categories include U.S. habeas corpus cases, labor unions v. companies, freedom of religion issues, the rights of disabled persons, government regulation of the economy issues, and many others. The ideology of the decision outcome was coded dichotomously, using ideological coding methodology that is consistent with the U.S. Supreme Court and U.S. Courts of Appeals databases. Of course, information about the individual judge who decided the case was included as well.

The process of coding cases and the other variables in the database will be discussed in greater detail in a database codebook. Our hope in releasing the database later this year is that other scholars will be able to build upon our work to address a wide variety of research topics and thus further our knowledge of judicial decision making.

(Re)Discover the Value of Nodes and Links: How Networks Can Further Law & Courts Research

Justin Wedeking and Anne Lippert, University of Kentucky
Ryan Black, Michigan State University ¹
justin.wedeking@uky.edu / alippert@unm.edu / rcblack@msu.edu



One common theme we hear regarding the strengths of the Law & Courts section is its diversity. In fact, many scholars **praise that our field's collective knowledge** of its subject matter benefits tremendously from the diversity of approaches and methods. In recent years, and in addition to the traditional methods of our field, a whole host of approaches have emerged as valuable tools in our study of law and courts. For example, we have seen new or renewed interests in using such tools as experiments (see the Spring 2014 symposium on this), an array of approaches using computer content analysis (for a brief overview, see Owens and Wedeking 2012), ideological scaling (Martin and Quinn 2002; Bailey 2013; Lauderdale and Clark 2014), and multilevel modeling (Bartels 2009), among others. To be sure, we are very fortunate to have a large and expanding toolkit to answer our questions of interest.



As part of this new wave of methods, scholars have introduced network analysis **and it's capabilities to our field.** For example, Fowler, Johnson, Spriggs, Jeon, and Wahlbeck (2007; see also Fowler and Jeon 2008) have drawn on recent advances in network analysis to highlight new ways for scholars to better understand the use and growth of Supreme Court precedent over time. By examining the network of precedent citation from 1791 to 2005, they were able to create importance scores for each precedent that would identify the relative importance of any case at any given time.

In short, we have benefitted greatly from this new mode of inquiry. With that said, however, we feel that network analysis has a lot more to offer, especially when viewed in conjunction with other methods. In this paper here, our goal is to highlight the advantages of using networks in your research, and also demonstrate two simple, but different applications of how networks might be applied to answer your substantive questions of interest. Towards that end, we hope our paper will stimulate and generate ideas that will enable scholars to ask new research questions about our common subject matter.

What is Network Analysis?

Network analysis is a mathematical method of studying complex systems by representing systems as networks of *nodes* and *links*. Nodes represent the main components of the system and links signify the relationships between these compo-

nents. For example, in a friendship network, the nodes represent the people and links connect two individuals if they are friends. Once in network form, the system may be analyzed using an extensive set of tools- mathematical, computational, and statistical- to answer specific questions about the system. Network analysis has been used to study a wide range of phenomena in political science as well as other disciplines such as sociology (Newman 2001; Newman and Park 2003), computer science (Albert, Jeong, and Barabási 1999; Rajasekar et al. 2013), cognitive science (Griffiths, Steyvers, and Firl 2007; Steyvers and Tenenbaum 2005), linguistics (Motter, de Moura, Lai, and Dasgupta 2002; Solé, Corominas-Murtra, Valverde, and Steels 2010) and the law (Fowler and Jeon 2008; Lupu and Fowler 2013).²

In fact, Borgatti, Mehra, Brass, and Labianca (2009) identify how the theory of networks have been a tremendous benefit for researchers across the social and hard sciences. This is due in part to the generality of network modeling and the extensive set of tools that can be used to analyze networks. If there is a system in which one is interested, and it can be represented in a network, then there is a plethora of well understood tools that can be immediately applied to get answers regarding the system. Networks are a general but powerful way of representing patterns of connections and interactions between different components of systems.

Network analysis initially emerged much earlier than its recent rise in popularity, having its roots in graph theory, a branch of discrete mathematics. The modern study of **networks is often referred to as the "new science of networks."** This phrase is meant to describe the interest and study of real world networks that extends beyond the historical study of networks as abstract mathematical entities. The science of networks that has taken shape over the last few years is characterized by its focus on real world rather than theoretical networks, its view of networks as non-static, evolving entities governed by a range of ever changing rules, and its emphasis on the role that network structure plays on network behavior (Newman, Barabási and Watts 2006). Such a framework provides useful representations for modeling a variety of complex real world phenomena in the biological, informational, social and technological sciences. Scientists can use these models to understand how different scenarios affect network properties and to make mathematical predictions about processes taking place on networks (i.e. the way traffic will flow over the internet, how a disease will spread throughout a community, how opinions will change as a consensus is reached).

Within political science, the study of political networks has become institutionalized, having formed an organized section of the American Political Science Association in 2009. At the

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same time, network analysis has been used to address many diverse questions of interest. To highlight but a few examples, network analysis has been used to show how knowledge can enhance voter participation when a social network provides access to sophisticated discussants (McClurg 2006). In addition, Cho and Fowler (2010) examine the bill cosponsorship network structure of Members of Congress to find that greater interconnectivity in Congress leads to greater productivity. Likewise, Perliger and Pedahzur (2011) articulate the advantages of using network analysis in the study of terrorism and political violence. Other areas of political science have also found them useful as a way to represent mental models of individuals in coordination games (Richards 2001). While there are more applications in political science, it is perhaps useful to highlight a few examples of how network analysis has helped us better understand topics in the domain of law and courts.

Early work by Caldeira (1988) used networks to examine all interstate references for state supreme courts in 1975 to uncover coherent networks among the states. McGuire (1993) used network theory to identify a core group of lawyers who commonly appear before the Supreme Court. In addition to **Fowler et al.'s examination of the network of precedent** mentioned above, Box-Steffensmeier, Christenson and Hitt (2013; see also Box-Steffensmeier and Christenson 2014) examine the networks of amici spanning over fifty years to help us better understand that the quality of interest group matters in terms of influence at the Court.

While these are excellent examples that contribute to our understanding of important topics, we think there are several other important (and relatively straightforward) applications where network analysis can further our research agendas. In the section below, we highlight two different possibilities using different data types, one using text data and another using survey data. Importantly, both of these data types are readily available to all of us.

Extending Networks to New Areas

In this section, we propose two extensions of how network analysis can be used to enhance our study of law and courts. The first is to use network analysis in conjunction with survey or experimental data. The second extension is to use it with text analysis. We turn to each of these.

Network Analysis of Survey or Experimental Data

In this example, we are interested in whether there are any differences between how high and low knowledge citizens view Supreme Court justices. In other words, do highly knowledgeable individuals structure or organize their perceptions differently than low knowledge individuals? This is potentially important because of how citizens learn about the Court and make judgments about legitimacy when they receive information about the Court's outputs. To answer this simple question, we use survey data from an experiment.

The first step in constructing networks from survey data (or experimental data) is to convert the data to a distance (or proximity) matrix. What we mean by this is simply that you need some input matrix that represents the relations between

some survey questions. It can be as simple as a correlation matrix for a series of questions, or it can be a more sophisticated algorithm using advanced metrics (e.g. Minkowski distance, Hamming distance, cosine similarity, etc). For example, if one had data from survey respondents who rated their attitudes towards different stimuli (e.g., institutions or cases, etc.) one could easily construct a matrix in a few simple commands.

In this example, we used similarity ratings data to construct a matrix. Specifically, we gave subjects in a survey all pairwise combinations of the nine current Supreme Court justices (e.g., Justice Scalia versus Justice Kagan; Justice Scalia versus Justice Roberts; and so on), and asked subjects to rate how similar or different the two justices were on a five point scale. In total, subjects made 36 separate ratings on a five point scale. We convert this data to a distance matrix by computing the pairwise distance between observations, using the city block distance metric, which is a standard measure recommended for Likert-type rating scale data (Schvaneveldt 1990). With the city block metric, distances are determined by summing the distance between items (justices in this case) along each of the 36 dimensions. We then used five standard political knowledge questions to divide the subjects into high and low knowledge groups, representing the top and bottom 25% of the survey subjects. Then we use Pathfinder (Schvaneveldt 1990) to construct networks for both the high- and low-knowledge groups.³

Figure 1 : Subject's Networks for high (top) and low (bottom) knowledge groups

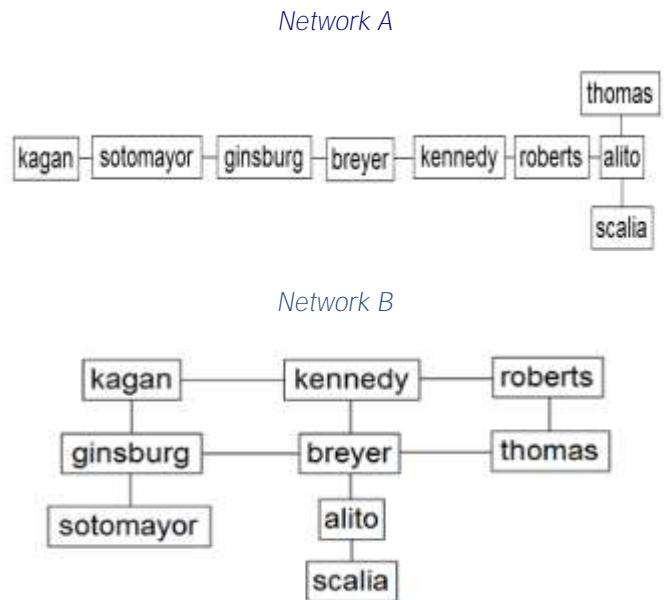


Figure 1 contains two networks, one each for the high- and low-knowledge groups. Nodes represent the justices on which subjects were asked to provide similarity ratings. A visual inspection of Figure 1 raises two striking differences between the networks of the high and low political knowledge groups.

(Continued on page 8)

First, the network derived from high knowledge subjects (Network A) show a clear separation of justices along ideological lines. There are clearer groupings between more liberal and more conservative justices in the high knowledge network compared to the low knowledge networks. For example, the high knowledge network shows the conservative justices (Thomas, Alito, Scalia, and Roberts) to be linked closely together, as well as the grouping together of the four liberal justices (Breyer, Ginsburg, Sotomayor, and Kagan). This is consistent with how current measures of the justices' ideology would group the justices. Furthermore, Kennedy is placed in the middle as the link between the four conservatives and four liberal justices, which is consistent with numerous media portrayals of him as the "swing" or "median" justice.

It should be pointed out that physical location in space is not meaningful in Pathfinder networks. Rather, the relative closeness of two concepts in a network is determined by the number of links between them. However, if we assume that Kagan is more liberal than Alito, which is similar to common assumptions in the scaling literature, then we can make subtle inferences about the perceived relative ideological space. For instance, we can measure how moderately perceived Alito, Scalia and Thomas are relative to each other by counting the number of links away each is from Breyer, who marks the start of the liberal cluster. Alito is perceived as the most moderate of the three, being three links away from Breyer, while Scalia and Thomas are perceived as slightly less moderate than Alito, each being four links from Breyer.⁴

In contrast, the structure of low knowledge individuals (Network B) contains many more connections. While it is possible to glean subtle inferences based on the node-link structure of networks, it is sufficient here to note that the number of connections is typically taken as an indication of sophistication, with fewer connections generally consistent with an "expert" network while more connections on a domain topic is usually evidence of a "novice" (see, for example, Bradley et al. 2006; Chen 2011; Schvaneveldt et al. 1985). This difference in structure is thought to reflect the finding that experts organize their knowledge around a few deep, meaningful core concepts that guide their thinking about their domain, whereas novices use any number of superficially relevant facts or formulas to approach domain related problems (Chi et al. 1981; Hmelo-Silver and Pfeffer 2004). Experts tend to identify only the most critical information and associations, and this translates into networks that are sparser than networks of their novice counterparts. Figure 1 comports with this expectation.

The second difference illustrated by Figure 1 is that many of the connections for the low-knowledge group (as opposed to the high-knowledge group) are of the "odd" sort, such that two justices are rated to be similar (as evidenced by a connecting link) that would not typically be thought of by people with a basic knowledge of the Court's decisions. For example, Thomas and Breyer are linked, as well as Breyer and Alito.

Networks With Textual Data

In this section we propose a simple example that looks at Supreme Court Justice Harry Blackmun's word usage on abortion/privacy law to see how Justice Blackmun represented

that area of law in his mind at two different points in his career. We capitalize on the well-known thesis presented by Linda Greenhouse in her book "Becoming Justice Blackmun" (2005) that Justice Blackmun's jurisprudence in this area of law had evolved considerably during his tenure on the Court. Specifically, it was her portrayal of Blackmun's pro-choice position during his early years that was attributed to his previous connections to the Mayo Clinic and his concern with the potential criminality aspect of abortion law (and not primarily with his concern for women's right to choose). In contrast, during Blackmun's later years he was portrayed as a champion of women's rights and a staunch defender of women's right to choose. We want to see if networks of his early and late opinions in this area of the law support this argument. This example has the benefit of demonstrating how networks can be formed using textual data, a data source that is readily available to all of us.

To examine this, we constructed two networks using Blackmun's Supreme Court opinions written on issues concerning civil rights or privacy. The first network (Network C) was derived from 70 of his opinions spanning late June, 1970 to mid-April, 1979, and the late network was derived from 52 of his opinions spanning early June, 1986 to late June, 1994 (Network D).

Figure 2 contains networks from Blackmun's early and late years. Visual inspection of the networks supports the idea that Blackmun's reasoning on the issue of women's rights had shifted during his tenure. Evidence for this shift is seen by considering node location and node connections between the early and late networks.

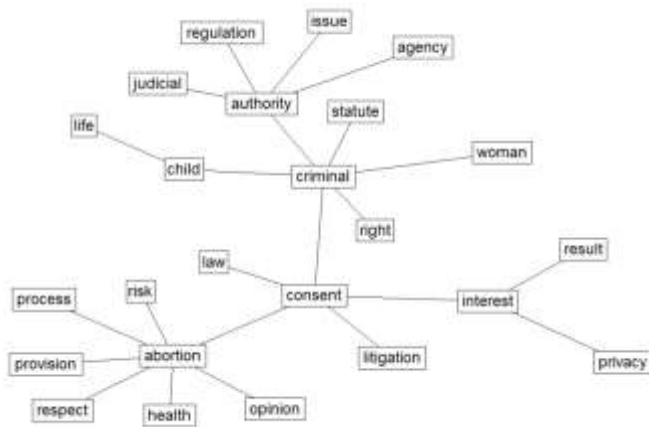
A nodes location within the network, whether it is centrally located within the network or on the fringes, has implications for its significance to the network. Measures of centrality are used in network analysis to quantify a nodes importance within the network. A simple but very useful measure of centrality is called degree, which is calculated by counting the number of links attached to a node. In many cases, the nodes with the highest degrees in the network, those with the most connections, are also the most important to the functioning of the system. Figure 2 shows that the degree of certain concepts increased or decreased from Blackmun's early network to his later network. In particular, in his early network, the node "criminal" (suggestive of his concern with the criminal aspect of the abortion law) has a degree of six (six links attached to it) but in his late network, it has degree of only two. This decrease in the importance of the "criminal" node reflects the idea that Blackmun's focus on the criminality aspect of abortion had waned in his later years.

Akin to examining shifts in a node's location, considering changes in a node's proximity to other nodes within a network reveals meaningful ways in which the network as a whole has changed (where the network in this case represents Justice Blackmun's perspective on civil rights and privacy issues). The path length between two nodes is another commonly used network analysis measure.

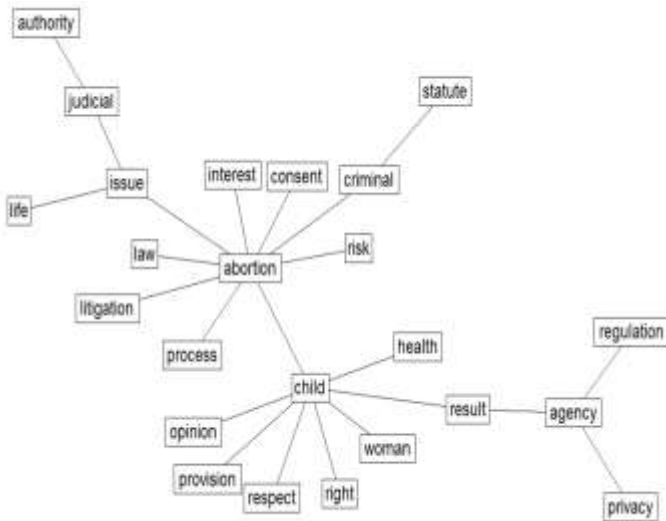
(Continued on page 9)

Figure 2: Blackmun's Networks for early (top) and later (bottom) years

Network C



Network D



It is defined as the minimum number of links necessary to transverse to get between two given nodes. In networks derived from text, path length is often used as a measure of the semantic distance between two concepts. We can consider how the path length between the nodes “abortion” and “woman” changed from the early to later network to understand how Blackmun’s view on abortion and its relationship to women changed. The path length between “abortion” and “woman” decreased from three to two, suggesting Blackmun more closely associated abortion with women’s issues in his later years.

In summary, the Blackmun example shows how considering changes in node location and node connections in networks can provide insight into characterizing more global changes of the system. Two simple, yet powerful measures of degree and path length indicate support for the idea that Blackmun’s

viewpoint on issues of civil rights and privacy issues changed during his tenure.

In conclusion, networks have a lot to offer, as they are a flexible method that can be used to study many diverse types of questions. As a field we have already benefitted from incorporating networks, however, the examination of two simple examples here suggests that there is a tremendous amount of untapped potential. Perhaps we need to think more of how networks can help answer our own research questions.

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Notes:

1. Author name order determined by a rock-paper-scissors round-robin (best out of 3 games per head-to-head match). It turns out Black always plays rock.]
2. Network analysis encompasses any attempt to study a problem or system using a network representation, which includes both social network analysis and semantic network analysis. Social network analysis is specific to sociological phenomenon versus, say, semantic network analysis, which has its roots in cognitive psychology. The main components of the network specify the type of network. In social network analysis, the nodes are people or sometimes groups of people and the links represent some sort of social interaction between them. In semantic network analysis, nodes are words or concepts and links are the cognitive associations between them.
3. Pathfinder is a data scaling technique originally developed for the analysis of distance data in psychology by Schvaneveldt, Durso, and Dearholt (1989). Given a distance (or proximity) matrix for pairs of entities, Pathfinder generates a network where entities correspond to network nodes, and network links are determined by the patterns of proximities (from the proximity matrix). For example, if the proximities are similarity measures, links will connect nodes of high similarity.
4. At the same time, Alito could be perceived as slightly more moderate than either Scalia or Thomas, even though all three have been placed in the same location along the horizontal axis.

Uncovering Causal Mechanisms between Independent Courts and Civil Conflict

Jacqueline M. Sievert
Western Carolina University
jmsievert@email.wcu.edu



While the benefits of an independent judiciary have long been documented with respect to liberal democracies, the utility of these institutions to authoritarian regimes remains a growing, but understudied area. Explanations typically focus on the economic benefits of protecting property rights or the ability to side-

line or eliminate support for the opposition.

These explanations, while convincing, would suggest all or most authoritarian regimes would have incentives to adopt or reform independent judiciaries. In a current study I introduce

an alternative explanation; that independent courts provide an authoritarian regime with information about the extent of dissatisfaction in the public. Since filing a case is inherently costly, only opposition groups that are strongly committed to change will participate in the legal system, and only when they believe the court is at least partially independent.

Therefore, when an authoritarian regime sees a case filed against them, they can be fairly certain the opposition group is highly resolved, willing to absorb relatively high costs, and would only accept substantial policy concessions to satisfy their demands. By having the court act as a source of infor-

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mation it identifies opposition groups that are the most likely to lead mobilized challenges against the regime, which the regime can prevent by offering significant policy concessions to that opposition group. As such, an authoritarian regime that employs an independent court should experience domestic conflict less often than those without independent courts.

Propensity Score Matching

Understanding the relationship between judicial independence and civil war is a complex one, mainly because the decision to adopt an independent court is not made in a vacuum. Institutional arrangements are the result of a state's colonial history, economic development, institutional memory, history of previous conflict, decisions of past and current leaders, influence from outside states, and many other factors. These factors also have a significant impact on the likelihood that the state will experience domestic conflict. Therefore, any methodological approach must account for, and untangle, the relationships between these factors.

A significant problem in studying whether courts reduce the likelihood of civil conflict is selection bias; those states that are most likely to adopt independent courts may also be less likely to experience civil war independent of the effect of judicial independence. Therefore, traditional regression analysis is insufficient to address these problems. I use propensity score matching not only to account for problems with selection bias and confounding variables, but to understand if the relationship between judicial institutions and civil war is a causal one.

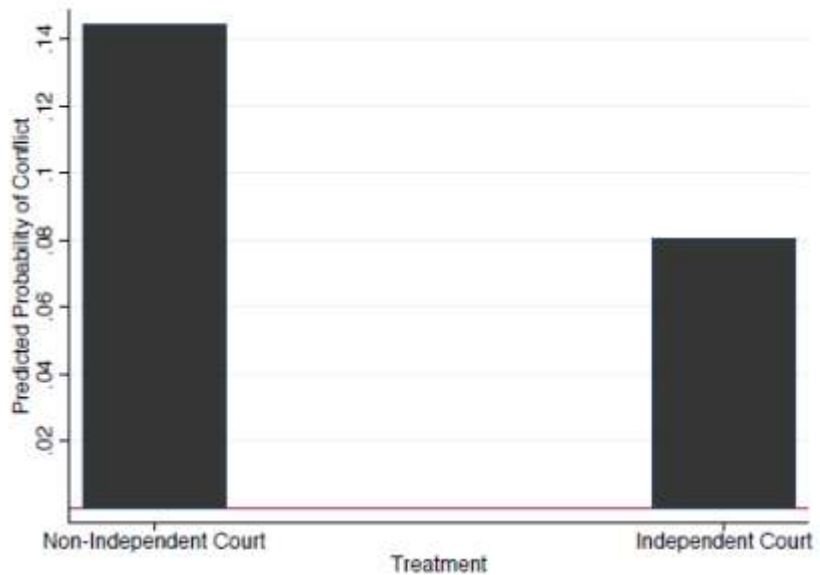
The first step in the matching procedure is to estimate a propensity score. I estimate a random effects logit, with judicial independence as the dependent variable, and variables for the observable confounding variables; previous conflict and severity, colonial history, authoritarian regime type, and GDP per capita. The predicted probability of adopting an independent court is used to estimate the propensity score, which is used to determine the final sample. I then use nearest-neighbor matching without replacement, so that each treated observation (states with independent courts) are matched with the untreated observation with the nearest propensity score. Once a match is found the untreated observation is removed from the pool of potential observations to match the remaining treated observations.

Once all treated observations have been paired with untreated matches, I estimate a logistic regression to obtain the likelihood of domestic conflict using this smaller sample. The re-

sults of the final model are plotted in Figure 1. Full descriptions of the data and methods can be found in the paper.

As Figure 1 shows, adopting an independent court reduces the likelihood of civil war by roughly 6 percentage points.

Figure 1: Predicted probability of conflict using the matched sample. Statistical significance is represented with * ($p < 0.10$, two-tailed), ** ($p < 0.05$, two-tailed), and *** ($p < 0.001$, two-tailed) and robust standard errors are reported in parentheses.



Among authoritarian states that were equally likely to have had an independent court, not having one increases the likelihood of civil conflict by about 75%. As such, independent courts provide a substantial benefit to regimes seeking to avoid mobilized challenges to their rule and increase stability within the state.

Conclusion. The discussion on the relationship between institutional arrangements in dictatorships has often focused on whether adopting liberal style institutions will lead authoritarian regimes to become more liberal and whether we can view these institutions as transitions to democracy. However, the growing body of work on authoritarian institutions leads to a starkly different conclusion, that not only are these institutional reforms not leading towards democracy, but are increasing the stability and tenure of the authoritarian regime.

This study examined how judicial institutions in authoritarian regimes can affect the likelihood of civil war. Independent courts serve as information providers to the regime. When groups in authoritarian states participate in the court system they signal to the regime their dissatisfaction with regime policies and their resolve to air grievances.

Authoritarian regimes experience domestic conflict more frequently than liberal democracies, and as such as often in search of tools to mitigate this risk. In addition to the repressive policies typically associated with illiberal states, this study

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suggests that institutional reform, particularly of the judiciary can provide a significant source of information about opposition groups, and reduce the likelihood of domestic conflict. Therefore, rather than viewing the adoption of democratic-style institutions as a move to a more liberal regime, these reforms should be viewed for what they are, strategic decisions designed to improve regime stability and decrease threats to the authoritarian state.

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A Coordinated Effort Establishing a 3+3 Program

Stacia L. Haynie

Louisiana State University

deanhss@lsu.edu



As I noted in the previous Law and Courts article, in July of last year I began serving as the Dean of the College of Humanities & Social Sciences at Louisiana State University. One of the issues that prompted my interest in the position was tackling the drop in our majors. While I had some awareness of the general national trend, I was unaware of the decrease in the interest in political science and others in the humanities and social sciences at LSU.

Our College houses eleven degree-granting departments (Communication Sciences and Disorders, Communication Studies, English, Foreign Languages and Literatures, French Studies, Geography and Anthropology, History, Philosophy and Religious Studies, Political Science, Psychology, and Sociology) as well as a number of interdisciplinary programs (African and African American Studies, Asian Studies, Comparative Literature, Disaster Science and Management, Film and Media Arts, International Studies, Jewish Studies, Linguistics and Women's and Gender Studies).

While our graduate numbers remain fairly steady, our undergraduate student body is another story. The figure below demonstrates what we are facing, and what many other institutions are similarly struggling to combat in their humanities and social sciences degree programs.

This was stunning, and personal, and, quite frankly, made me angry. I found myself considering five key issues that this data raised for us.

First, I would place the value of our degrees against anything that Biology, Plant Pathology, Business Management or other programs could offer.

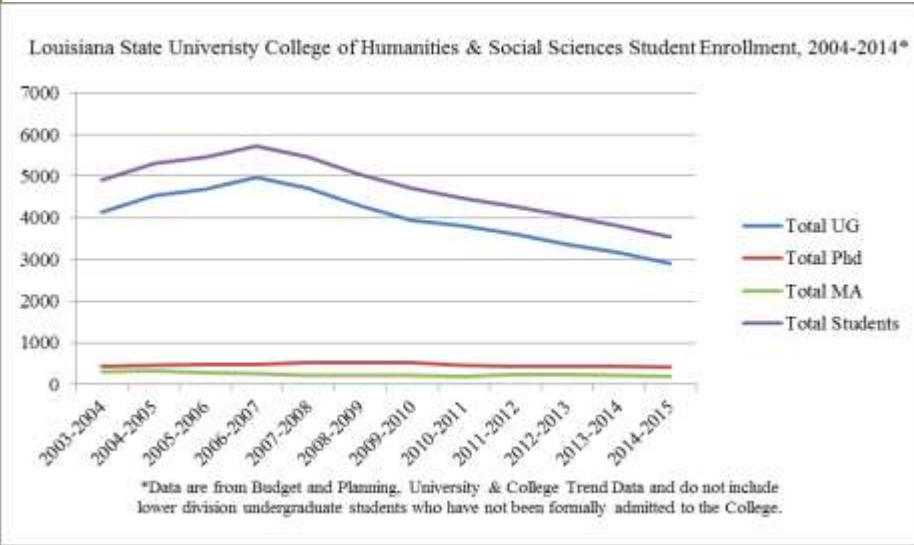
Second, beyond the substantive reasons to major in political science or other humanities or social sciences, it is in our best interest to maintain strong numbers in our undergraduate programs. As political scientists, we appreciate the power of size.

Third, robust graduate programs are almost always dependent upon robust undergraduate programs. In the STEM disci-

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plines, grants provide the resources to fund graduate students, but for a number of social science and humanities programs, the funding of graduate assistantships is directly tied to instruction. Teaching assistantships are necessary to support the large number of general education courses taught at the undergraduate level and to provide pedagogical training for our graduate students who are preparing for the academy. While I embrace the role that the humanities and social sciences play in a liberal arts education, I do not want to *just* provide the general education foundation, relegating us to a service unit.

Fourth, the size of the faculty in a department is dependent upon student demand. At least at LSU, courses have minimum enrollment requirements. Whether you need faculty coverage in voting behavior is irrelevant if there are no students to take the courses.



Fifth, as in many states, our general fund dollars have declined to less than 30% of our budget and may be nonexistent after a few more budget cycles. These cuts increase even further the importance of healthy undergraduate programs. I am not defending or supporting these points; I am just relaying the reality within which higher education functions.

We have initiated a multi-prong strategy to address our enrollment issues that includes better leveraging our relationship with the LSU Law Center, the Flagship school of law for the state. As most of us know, law schools are facing declining applicant pools. Assistant Dean Rebecca Caire and I wrote previously about the pre-law advising program we began this year in coordination with the Law Center to help support individuals interested in law school. A second initiative that I was asked to explore with the Chancellor of the Law Center was resurrecting a 3+3 program that existed in the 1970s at LSU.

Under 3+3 programs, students are able to obtain the Bachelor's and the *juris doctor* in six years rather than seven. There is a clear financial benefit to students – this reduces the cost of their college education and allows them to enter the work-

force earlier. For students from Louisiana who are guaranteed four years of college tuition once meeting fairly minimal requirements under our Tuition Opportunity Program for Students (TOPS), the fourth year of funding can be used for the first year of law school, a further benefit for our in-state students. Students participating in the program are required to take a much more rigorous curriculum in their senior year than their counter-parts not pursuing law school at LSU, and should these students not be admitted to law school or change their minds about the profession, they will still graduate with a terrific education and have a buffet of electives for their senior year.

There are legitimate concerns that these students may not be mature enough to matriculate to graduate school or sufficiently grounded in the foundational skills accrued in undergraduate studies and thus we are setting them up for failure. However, these are debates for faculty who rightly control the curriculum and who ultimately make the decision about whether to participate or not. At least that was this dean's perspective.

So how do I move this forward? Immediately upon talking with the Chancellor of the Law Center about the possibility of the program, I turned to Becky to determine the feasibility before having the faculty deliberate about participating. I leverage every ounce of Becky's brain, and it's an exceptionally heavy one. She knows the curricula, the College requirements, the University regulations, the Regents' rules, and everything in between. Everyone needs a Becky Caire – actually everyone needs a dozen.

Once Becky assured me we had the flexibility in our degree programs, almost all of which have at least 30 hours of electives, I needed to move quickly. It is now September and we are in the middle of recruiting the 2015 class. I asked the faculty of the majors to consider participating and provided them a month to deliberate about whether or not they wanted to contribute.

I am deeply indebted to a faculty who moved quickly, and within weeks I had departments moving to participate in the program. Within the month we had almost all the degree programs in the College on board. (Only Communication Sciences and Disorders, the basic path to becoming a speech pathologist, Economics, and Women's and Gender Studies are not participating.) Under the program adopted by the faculty, students must complete all requirements for the major during the first three years of study. The students apply to the LSU Law Center in the fall of the junior year and if admitted, matriculate to law school during their senior or fourth year of study. The LSU campus will verify the completion of the first 30 hours of law school and transfer those hours back to com-

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plete the undergraduate degree. The student then completes the final two years of law school and graduates with both the undergraduate and graduate degrees in six years rather than seven years. Students can only take advantage of the program if they matriculate through LSU undergraduate programs.

It is the end of October, and I am now on the recruiting stump touting the 3+3, which is met with enthusiasm by students and their parents. Oh wait, that whole Southern Association of Colleges and Schools accreditation “substantive changes” thing – does this qualify and do I need approval? How many hours will SACS allow to count toward both degrees? And then **there’s the Board of Supervisors** – do they have to approve? Oh wait, the Chancellor said something about the American Bar Association’s accrediting arm **having to chime in. I have no time for these...details.**

Okay – October is now spent ironing out everything with Academic Affairs, the President’s Office, the Board, SACS, and the ABA. Miraculously, we get all the necessary approvals. The Chancellor and I both want a press blitz on this, and I am already creating a postcard to send to students already admitted for the fall 2015 school year. University Relations asks me **where our “call to action” was on the postcard. Who knew that we needed to have a website or contact information for the students? (Who knew what a “call to action” was for that matter?)** Sigh. Okay, build a website in two weeks. Done – and you can see it at <http://hss.lsu.edu/Programs/Undergraduate/PreLaw/item73851.html>.

(Side note, I continued to push the program at every recruiting

event in November with ridiculous confidence I could make this work.)

Becky is busy with the department chairs and others doing her magic (which she will relay in her article) when the Chancellor of the Law School calls me in December to let me know he will be scheduling the vote of his faculty for their support of the program in **January**. I hear screeching sounds in my head like **when you slam on the brakes. I didn’t panic, but I was going to have a whole lot of explaining to do if the Law Center faculty wasn’t on board. Fortunately, they approved and even vetoed** some restrictions favored by a couple of the more hesitant faculty. So far, none of the other Colleges at LSU are participating (primarily because their curricula have too few degrees of freedom), but we are getting a great deal of interest among high school students and their families. Whether related to this or our other initiatives, our applications to the College are up 16% and students admitted are up 28%. Further analysis will be necessary, but I suspect that we have successfully recruited some very strong students to LSU who might have gone elsewhere in the state absent the new program.

Ultimately, we likely will have many more students enter our undergraduate programs in the 3+3 program than actually graduate from the Law Center through it. At the end of the day, these students may not be lawyers, but they might be the successful head of the largest film production facility in the state, like one of our Political Science graduates, or a very successful hotel broker, like another of our Political Science graduates, or occupy one of the many, many interesting career paths that majors in humanities and social sciences follow.

Raising the Bar at LSU: A 3+3 Initiative

Rebecca Caire

Louisiana State University

rcaire@lsu.edu



At LSU, we recently gained the necessary approvals to begin a 3+3 program during the Fall 2015 semester in collaboration with the LSU Law Center. If you have **already read Dean Haynie’s article, you will remember that she indicated that she has no time for “these...details” related to implementation.** She is not concerned about the details because she knows that I always am.

My role in the implementation process is all about the details and about specifically outlining a four-year action plan that must occur for participating students to move through the 3+3 program. From a student initially indicating their interest in our 3+3 program to seeing that student cross the stage at Commencement, my goal is to identify all of the steps needed between application and Commencement to make this program a reality.

For anyone who has planned an event or program, you can appreciate that there is a significant amount of work that goes on behind the scenes to make the event or program appear to be seamless to the viewer. This 3+3 program has been no exception. We officially have 18 different 3+3 tracks from which students may select in the LSU College of Humanities & Social Sciences. Creating these pathways required collaboration with a wide array of individuals, ranging from the faculty to support personnel across the campus. Initially, there was concern that we would need to vet each of these new 3+3 tracks through the full curricular review process. At LSU, this process begins with faculty from the department or **program requesting the change, routes through our College’s Courses & Curricula Committee, then through the University’s Courses & Curricula Committee, ending with the Office of Academic Affairs.** A full review of the individual proposals would mean, at a minimum, one to two additional months added to our implementation timeframe.

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We were running on what I like to call SH (Stacy Haynie) time, and we most certainly did not have an additional one to two months to spare if we were to have the 3+3 program in place for the next academic year. Thankfully, because we were not making any changes to the original degree path from each department or program but only changing the order in which the required courses were to be taken, we received approval to move forward. I then began the work involved with creating the needed 3+3 tracks.

At LSU, we have an advising tool called a “recommended path” for every major and concentration option available for students to declare. The path is broken down into eight semesters and outlines the recommended order in which faculty from that department or program want students to enroll in their needed coursework. For faculty from each department and program that were interested in having a 3+3 track, I took their recommended path and created a draft of a 3+3 version, which had all General Education requirements, all College requirements, and all major requirements placed in the first six semesters of enrollment. First-year law students at LSU complete 32 hours of coursework over their first year of study.

Accordingly, I shifted 32 hours of our free electives to semesters seven and eight of each 3+3 track. Since the majority of our degree programs in the College of Humanities & Social Sciences have at least 32 hours of free electives, the process of creating the individual 3+3 tracks went smoothly for most of our areas. Certainly, there were a small number of course shifts that were requested by the faculty, and that was simple enough to do.

Now that we had the 18 3+3 tracks completed, we needed to ensure that they were made available for interested students. Of course, we could easily add them to our newly created 3+3 Pre-Law website in our college. However, publishing the paths on our website meant that we would also be responsible for updating this information annually at the time of the **publication of the next academic year’s LSU General Catalog**. There is already a formalized review process in place at the **University level for our College’s array of 43 non-3+3 major and concentration recommended paths**. If possible, it would be ideal to fold the 3+3 tracks into the already established review process as coordinated by the staff in the LSU Office of the University Registrar, and we received the necessary approval to do just that. The 3+3 tracks will be part of the online *LSU General Catalog* effective with the 2015-16 publication. Once the catalog is published, we can easily link our website to each of the tracks, thereby ensuring that interested students are always getting the most updated information.

In addition, a special section of the University’s compilation booklet of all recommended paths was created especially for our 3+3 tracks. This was critical as this booklet is distributed to all newly admitted freshmen and transfer students, and they will now have direct access in both hard copy format and electronically to the needed track information. Once we created 3+3 text for both the *LSU General Catalog* and the recommended paths booklet, we were officially able to check this **step off of our “to do” list.**

As you have no doubt assumed, the creation of the specialized 3+3 tracks took a significant amount of time, approximately 3-4 months. However, there were still many details that had to be ironed out to allow for the 3+3 initiative to begin in the upcoming fall semester. Dean Haynie and I called **a group meeting of the following key individuals: our College’s Pre-Law Advisor; the University Registrar and Associate Registrar; the Admissions Manager and Director of Student Aid from the Office of Enrollment Management; one of the individuals responsible for ensuring that we as a University uphold all SACS standards; a representative from the Office of Bursar Operations; two key administrators from the University’s Information Technology Office; and several key administrators from the LSU Law Center, including their University Registrar.** Clearly, it was going to take a village to finalize the details involved with this 3+3 initiative. Some of the details that still needed to be addressed included the following:

- Regarding any scholarships that our 3+3 students received while as an undergraduate, we wanted to ensure that they were able to maintain those awards while in their first year of law school. The Director of Student Aid will assist with creating an amendment to the original scholarship specifications allowing the student to maintain the scholarship until they have earned their **bachelor’s degree.**
- How will an interested student formally declare their participation in the 3+3 program? There will need to be a minimum of two options available: one for those students who indicate participation at New Student Orientation, and an option for those students who decide to participate at a later point. We are considering adding a **designation to the University’s online application for enrollment**, but may not be able to move forward with this option immediately due to the recent movement to a new software vendor. We will find out the parameters that will be involved within the next few weeks and make a decision. In addition, we are going to create a contract for interested students to sign outlining the details that they should be aware of with regard to our 3+3 program. **For example, the Law Center’s final exams are held after our spring graduation ceremonies.** Students will have to formally cross the stage at Commencement in the summer. We want them to be aware of this important detail.
- How will we identify and track the 3+3 students? It was determined that these students would have a specific code tied to their registration status each semester in the **University’s computer system. This “semester code” will allow us to pull data tied to participating students and continue to track each student’s progress over the course of their enrollment.**
- Broadcast groupings will need to be created to allow us to effectively communicate and distribute critical information to the 3+3 students (both currently enrolled in their undergraduate coursework and those students in their first year at the Law Center). These groupings will be created by the IT staff and updated according to the aforementioned semester code.

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- How do we handle students who are completing an Honors thesis through the LSU Honors College? These students typically work on their Honors thesis between semesters five through eight. Are we able to condense that timeframe? I will be meeting with the Dean of the LSU Honors College and his key staff members in the next two weeks to identify a solution to this issue.
- When a 3+3 student completes their first year law coursework, how will those hours be transferred back to the main LSU campus? Are there any steps that the student must take to facilitate their graduation after the completion of their first-year law coursework? A system of **“checks and balances” must be created between our College staff and staff in the Office of the University Registrar** to ensure that any additional needed graduation processes specific to the 3+3 students are addressed. In addition, the University Registrar will work with us to identify

any needed issues pertaining to Latin honors and the awarding of the University medal that need to be addressed by the University’s Admissions, Standards, and Honors Committee. Currently, faculty from the main LSU campus and faculty from the LSU Law Center use different grading scales.

We have an extraordinary team of individuals working to ensure that our 3+3 efforts are successful, and we will continue to collaborate in addressing any possible issues that may arise. Our first new student orientation for our Fall 2015 class is scheduled at the end of March, so we have a clear and specific timeframe in place in which our first students interested in the 3+3 initiative will arrive on campus. Our goal, as always, has been to facilitate student success, and we look forward to helping the undergraduates enrolling in our 3+3 program.

Books to Watch For Spring 2015

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

Victor E. Flango (retired, National Center for State Courts) and **Thomas M. Clarke** (National Center for State Courts) have co-authored *Reimagining Courts: A Design for the Twenty-First Century* (Temple University Press, ISBN 978-1-43991-167-9). **Flango and Clarke “argue that courts are a victim of their own success. Disputes that once were resolved either informally in the family or within the community are now handled mainly by courts, which strains government agency resources. The authors offer provocative suggestions for a thorough overhaul of American state and local courts, one that better fits the needs of a twenty-first century legal system. They recommend a triage process based upon case characteristics, litigant goals, and resolution processes. Courts must fundamentally reorganize their business processes around the concept of the litigant as a customer. Each adjudication process that the authors propose requires a different case management process and different amounts of judicial, staff, and facility resources. *Reimagining Courts* should spark much-needed debate. This book will be of significant interest to lawyers, judges, and professionals in the court system as well as to scholars in public administration and political science.”**

Amanda Hollis-Brusky (Pomona College) has published *Ideas with Consequences: The Federalist Society and the Conservative Counterrevolution* (Oxford University Press, ISBN 978-0-199380-552-2). **“There are few intellectual movements in modern American political history more successful than the Federalist Society. Created in 1982 to counterbalance what its founders consid-**

ered a liberal legal establishment, the organization gradually evolved into the conservative legal establishment, and membership is all but required for any conservative lawyer who hopes to enter politics or the judiciary. It claims 40,000 members, including four Supreme Court Justices, dozens of federal judges, and every Republican attorney general since its inception. But its power goes even deeper. In *Ideas with Consequences*, Hollis-Brusky provides the first comprehensive account of how the Federalist Society exerts its influence. Drawing from a huge trove of documents, transcripts, and interviews, she explains how the Federalist Society managed to revolutionize the jurisprudence for a wide variety of important legal issues. Many of these issues—including the extent of federal government power, the scope of the right to bear arms, and the parameters of corporate political speech—had long been considered settled. But the Federalist Society was able to upend the existing conventional wisdom, promoting constitutional theories that had previously been dismissed as ludicrously radical. As Hollis-Brusky shows, the Federalist Society provided several of the crucial ingredients needed to accomplish this constitutional revolution. It serves as a credentialing institution for conservative lawyers and judges and legitimizes novel interpretations of the constitution that employ a conservative framework. It also provides a judicial audience of like-minded peers, which prevents the well-documented phenomenon of conservative judges turning moderate after years on the bench. As a consequence, it is able to exercise enormous influence on important cases at every level.”

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Kirk A. Randazzo (University of South Carolina) and **Richard W. Waterman** (University of Kentucky) have published *Checking the Courts: Law, Ideology and Contingent Discretion* (SUNY Press, ISBN 978-1-4384-5287-6). **The authors examine whether and how, “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 reveals that judges are influenced by the levels of discretion afforded in the legislative statutes. In those cases in which 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 us with a better understanding of the dynamic interplay between law and ideology.”**

Jason E. Whitehead (California State University, Long Beach) has published *Judging Judges: Values and the Rule of Law* (Baylor University Press, ISBN 978-1-6025-8525-6).

“The ‘rule of law’ stands at the heart of the American legal system. But the rule of law does not require judges slavishly to follow the letter of the law, unaffected by political or social influences. Because following the rule of law absolutely is impossible, it is dismissed by the public as a myth and judges are vilified. *Judging Judges* refocuses and elevates the debate over judges and the rule of law by showing that personal and professional values matter. Whitehead demonstrates that the rule of law depends on a socially-constructed attitude of legal obligation that spawns objective rules. Intensive interviews of judges reveal the value systems that uphold or undermine the attitude of legal obligation so central to the rule of law. This focus on the social practices undergirding these value systems demonstrates that the rule of law is ultimately a matter of social trust rather than **textual constraints. **Whitehead’s unique combination of philosophical and empirical investigation is a major advance because it moves beyond the dichotomy of law or politics and shows that the rule of law is a shared social enterprise involving all of society—judges, politicians, scholars, and ordinary citizens alike. *Judging Judges’* attention to judicial values establishes judges’ true worth in a liberal democracy.”****

ANNOUNCEMENTS

LSAC Research Grants

The Law School Admission Council (LSAC) Research Grant Program funds research on a wide variety of topics related to the mission of LSAC. Specifically included in the program's scope are projects investigating precursors to legal training, selection into law schools, legal education, and the legal profession. To be eligible for funding, a research project must inform either the process of selecting law students or legal education itself in a demonstrable way.

The program welcomes proposals for research proceeding from any of a variety of methodologies, a potentially broad range of topics, and varying time frames. Proposals will be judged on the importance of the questions addressed, their relevance to the mission of LSAC, the quality of the research designs, and the capacity of the researchers to carry out the project.

Application deadline is August 15.

For more details, go to <http://www.lsac.org/lisacresources/grants/lisac-research>.