



# Law & Courts

NEWSLETTER OF THE LAW & COURTS SECTION OF THE  
AMERICAN POLITICAL SCIENCE ASSOCIATION

## A Letter from the Section Chair

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In my previous columns, I discussed two issues that I view as important for the continued success and further development of the Section—mentoring young scholars and raising the profile of the Section. To recapitulate, I argued that the Section needs to create a set of mechanisms for nurturing young scholars and endeavor to build our collective reputation within the discipline. In this column, I will highlight a third item that is necessary (but not sufficient) for the realization of these goals. That third point is service to the Section, and I urge members of the Section to take action aimed at fostering its vitality.

Let me begin by noting that the Section already has a number of individuals who devote time and energy to Section activities. I want to thank all of those people for their efforts, for without them the Section would not run nearly as well as it does. The Section, however, needs more people to serve in offices, staff ad hoc committees, and suggest ways to improve the Section. Consider this column an invitation to take part in Section-building endeavors.

I want to highlight an upcoming opportunity for scholars to learn about career development (and point to it as an example of a Section member taking time to further the interests of the Section). Professor Stefanie Lindquist (Vanderbilt University) has organized a roundtable panel at the upcoming Southern Political Science Association meeting (January, 2006) devoted to issues related to career development. This panel of senior law and courts scholars will discuss such topics as: how to publish, how to get tenure, how to balance teaching and research demands, and the like. For anyone attending the conference (and especially those of you who are not yet tenured), I highly recommend this panel.

Let me offer an example of a Section need that did not receive member response. This past Spring, the Section announced an opening for the moderator of the Law and Courts Discussion List. The moderator position carries a three-year term, and the moderator is responsible for managing the List. Despite the importance of the List for the Section, we received zero applications for the position. Fortunately, the current moderator, Howard Gillman, was gracious enough to agree to extend his tour of duty by an additional year. The Section will search again for this position in the near future, and I encourage Section members to apply to take on this vital task.

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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** is published three times a year in Winter, Spring, and Summer. Deadlines for submission of materials are: November 1 (Winter), March 1 (Spring), and July 1 (Summer). Contributions to **Law and Courts** should be sent to the editor:

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## 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, or commentary on developments in the field are encouraged.

Footnote and reference style should follow that of the *American Political Science Review*. Please submit two copies of the manuscript electronically as either an MS Word document or as a PDF file. Contact the editor or assistant editor if you wish to submit in a different format. 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**:

Keith Bybee, [kjbybee@maxwell.syr.edu](mailto:kjbybee@maxwell.syr.edu),  
of publication of manuscripts or works soon to be completed.

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*(Chair's Column, continued from Page 1)*

Since my audience consists of political scientists, I can anticipate a common reaction to my entreaty: "Why should I expend effort to create a public good when I can free ride on the work of others?" There is no denying that the Section faces collective action problems. Research (and practice) has shown, however, that such obstacles can at times be overcome. Indeed, the efforts of past and present members of the Section demonstrate that this problem is not insurmountable! With a modest amount of effort on the part of a relatively small proportion of Section members, we can conceive of and implement reforms that will strengthen the organization. My hope is that this column will resonate with some of you and spark an interest to take part in Section activities.

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AN INVITATION FROM THE PRESIDENT OF THE LAW & SOCIETY ASSOCIATION

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As some readers of this newsletter may know, I was recently elected to a two-year term as President of the Law and Society Association (LSA), and I want to take the opportunity to inform members of the Law and Courts Section of the APSA about LSA and opportunities for political scientists within it.

My election is part of a long tradition of political scientists being actively involved in both the Law and Courts Section and the LSA. Political scientists active in the Section have long been prominent in the LSA, as officers, as members of the Board of Trustees, and as editors of the official journal of LSA, *Law & Society Review (LSR)*. Still more have regularly attended and presented papers at its annual meeting and published in the *LSR*.

Four years ago at the request of then Section Chair, Sheldon Goldman, I chaired an ad hoc committee charged with examining a variety of structural problems within the Section. There was some feeling that the Section membership was too diverse to meaningfully cohere, that there were not enough panels devoted to various subfields within public law, and that there were insufficient publication outlets for the variety of scholarly work undertaken by members of the Section. The committee, comprised of a group of distinguished public law scholars, issued a detailed and thoughtful report. It acknowledged that some of the problems facing the Section might be intractable (e.g. the number of panels at the annual meeting of the APSA is a function of attendance at previous panels, and while we are one of the largest sections, our membership does not have an especially good record of attendance at Section-sponsored panels!). But the committee's report also suggested a number of steps the Section could take to enrich scholarly communications and collaborative activities. Among them was the possibility of establishing or sponsoring a journal, as several other Sections have – and I continue to think that this is an idea worth further exploration.

In addition, the Committee recommended that Section members consider becoming active members in the Law and Society Association. In contrast to the extremely limited opportunities at the APSA, LSA's annual meetings provide ample opportunities for individuals to present papers and for groups to organize panels. A great many political scientists, both active in the United States and abroad, are already active members of the LSA, regularly attend its annual meetings, and find the experience rewarding. More would certainly be welcome. Similarly, a great many Section members publish in the *LSR*, which has long been a highly regarded outlet (carefully peer-reviewed, high standards, highly competitive) for political science scholarship. Indeed a list of political scientists who have published in the *LSR* would constitute something of a Who's Who list of Section members over the past forty years (the numbers of Section members who publish in the *LSR* is so large that I dare not even try to formulate a list for fear of overlooking too many colleagues).

But there are four other concrete reasons why members of the Section should consider active participation in the LSA:

1) The LSA sponsors over a dozen Collaborative Research Networks (CRNs). These groups—working groups formed around particular issues or research topics—are accorded time and space at the annual LSA meetings, and at times hold workshops and seminars at other dates and locations. For example, I am a co-organizer of a group that recently met in Onati, Spain for a week. Our group included political scientists from three continents, as well as a number of other scholars. CRNs provide a wonderful antidote to the standard panel presentation of three or four papers squashed into an hour and a half time slot. Further, they facilitate on-going communication and collaboration from like-minded scholars from around the world. In addition to separate meetings at other times and locations, and organizing series of panels at the annual meeting, some CRNs organize closed workshops the day before or the day after LSA's annual meeting, taking advantage of free meeting space and the standard conference housing rates. It is both easy to join and to form new CRNs. Such working groups are, I believe, the wave of the future in large professional associations, and LSA is among the first to recognize this.

2) Twenty-five percent of the membership of LSA is non-North American. Thus its annual meeting provides a wonderful venue to connect with like-minded scholars from around the world. This is particularly important for American political

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science public law scholars. In most other countries, public law or law and courts is not a major field within political science, if it is even a field at all. Indeed, scholars in other countries interested in “law, politics, and courts” are not likely to be political scientists at all. However, scholars with such interest do exist. Apart from the occasional political scientist, they are likely to be found in law faculties, public administration programs, sociology faculties, and scattered throughout still other university units. Although some such scholars do find their ways to the annual meeting of the APSA (and the wonderful Research Committee on Comparative Judicial Studies of the IPSA), they also attend, regularly and in large numbers, the annual meeting of the LSA. So, if you are interested in comparative law, comparative courts, comparative judicial behavior and the like, LSA provides a wonderful venue for presenting papers and joining in discussion with similarly interested scholars. Even if your interests are primarily in obtaining knowledge about and materials for use for course development in comparative law, the panels, the papers, the people, and the book exhibit should make attending the LSA meetings exciting and worthwhile.

3) Law professors constitute a substantial portion of LSA’s membership. For the most part this group consists of legal scholars whose interests fit nicely with those of political scientists and social scientists more generally, and who are not oriented to traditional legal scholarship. They are serious scholars interested in more than professional training, are often well-trained in empirical research methods, and they tend to find talking to and working with empirically and historically oriented social scientists a delight. For instance, Theodore Eisenberg, founding editor of the new faculty-edited, peer reviewed journal, *Journal of Empirical Legal Studies*, has long been active in the LSA and collaborates with social scientists on a regular basis. Other legal scholars deeply influenced by the new institutionalism in political science are active in LSA. Although some of the legal scholars occasionally participate in panels at the APSA meetings, they regularly attend, and in substantial numbers, the LSA meetings. Again, this should be attractive to many Section members.

4) LSA welcomes young scholars. LSA takes pride in its tradition of integrating young scholars into the Association and its activities. Each year it sponsors a Graduate Student Workshop the day before the annual LSA meeting begins. This day-long workshop provides an opportunity for graduate students interested in law and social science to meet with each other and to work through both substantive and methodological issues with recognized scholars in the field. This program is staffed heavily so that participants can receive personal attention and can be drawn into LSA’s scholarly community. The meeting also serves as a basis for a network of young scholars.

LSA also has a mentoring service that pairs younger scholars with established scholars at the annual meeting.

In addition, LSA regularly sponsors a Summer Institute, which brings together (and helps fund) twenty five young scholars (advanced graduate students and new faculty) for a week of intensive work. Sessions are devoted a careful examination of canonical texts, and presentations and critiques of participants’ own research. The 2004 Summer Institute was held at the Center for the Study of Law and Society at UC Berkeley, and the 2005 SI was held at the Centre for Sociolegal Studies at Wolfson College, Oxford. Plans are underway for future meetings in South Africa and at UC Santa Barbara. The LSA recently received a grant from the National Science Foundation to develop still more programs. In the past political science graduate students and junior faculty have been well-represented in the SIs, and senior political scientists have served on the Institute’s faculty. There is no reason that this should not continue into the future. If you are reading this, ask yourself: Is this for me? Or, do I have a graduate student or young colleague who might benefit from it?

As a political scientist, I have been active in both the Law and Courts Section of the APSA and the Law and Society Association for my entire career (I have been a member of the APSA since 1968). Like a great many other political scientists, I have found these two organizations to nicely complement each other. If you have not read the *LSR*, or if you have not attended a meeting of the LSA, or if one or more of the particular features of the LSA listed above appeals to you, I urge you to take a look and give it a try. Next year’s (2006) annual meeting will be held in Baltimore, July (7-9) rather than the usual time in early June (as an experiment to accommodate European scholars whose academic year ends in late June). The meeting might be especially attractive to political scientists since long-time Section members will play a major role in organizing it. Joel Grossman (Johns Hopkins) is the local arrangements chair for the meeting, and Michael McCann (U. of Washington), is co-chair of the Program Committee. If you have not attended an LSA meeting before, you do not need an “in” with one of these Section members to make you feel welcome. But their prominence on the program should suggest that LSA is a good place for public law scholars and scholarship. For more information on the Law and Society Association, consult its website at [www.lawandsociety.org](http://www.lawandsociety.org)

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# Symposium: LAW-RELATED JOURNALS

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INTRODUCTION TO SYMPOSIUM

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Among the primary activities that scholars undertake is to produce scholarship. Research and writing about that research make up a large part of what is expected from political scientists and others who pursue an academic career. The corollary is that the research and writing must be disseminated among others interested in that work, and maybe even to those less interested. This is where scholarly journals come in – they are the vehicles by which scholarship is disseminated. The value of journals, then, is self evident. That is why we convened a panel of editors of law-related journals at the 2005 annual meeting of the Midwest Political Science Association (MPSA) in Chicago, Illinois, this past April – to allow those engaged in scholarship to learn some tricks of the trade from those engaged in publishing scholarship, namely the editors of journals.

At the MPSA last April, we assembled an array of editors who represent journals that are as different as night and day. The journals reflect different subject emphases, different review processes, different formats; in short, they represent different personalities. Yet they are all journals that publish work by, and are read by, political scientists who are interested in law and courts. Our hope is that by offering some overview about these journals, we can be of assistance to potential authors of articles for these journals and help political scientists be successful as authors and scholars. What follows are the written versions of the editors' remarks. We thank the chair of the Public Law Section for the MPSA, Kevin McGuire, for supporting the panel.

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*LAW & SOCIETY REVIEW*: THE LEADING JOURNAL IN THE FIELD OF SOCIAL SCIENCE & LAW

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*Law & Society Review* (LSR) is the official journal of the Law and Society Association. The *Review's* first issue appeared in 1967. The Association chooses the editor who has control over the selection of articles that appear in the journal. A separate book review editor, currently Professor Elizabeth Heger Boyle, a sociologist at the University of Minnesota, has responsibility for book reviews and review essays. For most of the *Review's* existence, it was self-published by the Association; starting in 2003, Blackwell became its publisher. Blackwell is responsible for production, starting from the delivery of accepted manuscripts for copy-editing through the mailing of the finished product.

The focus of *Law & Society Review* is on research that develops, advances, and applies socio-legal theory. My goal as editor is to find articles that will appeal to a broad, interdisciplinary audience. Most of the articles appearing in the *Review* involve empirical research that is either qualitative or quantitative in nature. We also publish some articles with a more humanities orientation and some that are essentially theoretical pieces.

A strong emphasis of the *Review* is to look at legal phenomenon broadly. This means that we are especially interested in manuscripts that would fall into the category that political scientists would call comparative; that is, they deal with law and legal phenomena beyond the United States. Last year we published a special issue on "constitutional ethnography," commissioned by my predecessor Joe Sanders and edited by Kim Lane Schepelle; that issue included articles about Canada, Russia, Estonia, Turkey, multiple countries in Eastern Europe, and the European Court of Justice. In other 2004 issues, we had articles on Russia, Estonia, Fiji, Ghana, and South Africa. In 2005 and 2006, we will have articles dealing with International Criminal Tribunal for the Former Yugoslavia (ICTY), Britain, Canada, China, India, Italy, Japan, Jordan, Mozambique, and New Zealand. We also have several forthcoming pieces related to Native Americans and a piece on pre-colonial Hawaii.

Since I have been editor, about a quarter of the manuscripts submitted to *LSR* have come from political scientists, as have about a quarter of those that I have accepted. Sociologists and law faculty each provide about another quarter; the remainder come from anthropologists, psychologists, historians, economists, geographers, criminal justice scholars, and others. The manuscripts from political scientists represent the range of law-related work done by people in the discipline. This includes studies of judicial decision making in appellate courts and the Supreme Court, work that takes more of a social movement perspective, and some more jurisprudential pieces. The last is most problematic for *LSR*; those pieces probably would be better sent to a journal such as *Review of Politics* or *Polity*.

It is important for political scientists who are considering submitting a manuscript to *Law & Society Review* to take cognizance of the fact *LSR* is *not* a political science journal; it is an *interdisciplinary* journal that seeks to publish articles that appeal across disciplines. This means that authors who submit to *LSR* need to cast their articles broadly to move beyond disciplinary debates. I have often received papers that look as if they were probably previously submitted to a political science journal and then submitted to *LSR* without so much as a word changed. These papers are typically written so as to address political scientists rather than the broad law and social science community. I do send such manuscripts out for review, but I try to use a mix of political scientists and non-political scientists as reviewers; if the manuscript generates a positive response from the reviewers, I then push the authors to expand the audience to whom they are speaking. Since most of the work I receive from political scientists is U.S.-focused, I often ask authors to think about the implications of their analysis for settings other than the U.S.

This issue of pushing authors to make articles interesting to as broad an audience as possible is not specific to political scientists. It is a general principle I adopted when I became editor. Part of my standard practice is to send every manuscript I accept to a member of my editorial board who does not work in the area addressed by the article. I ask the editorial board member to read the manuscript as they would as someone not working in the specific area and to provide



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suggestions as to what the author might do to broaden the audience for the eventual article. This is not a “review” in the sense of affecting my decision on publication—I have on one or two occasions had editorial board members question my decision to accept a piece—but rather a method of providing additional feedback to the author.

This points to a general issue about publishing in interdisciplinary journals as distinct from “multi-disciplinary” journals such as the *Social Science Quarterly*. Authors need to be cognizant of the specific parameters of the particular journal and cast their manuscripts in a manner that is consistent with the journal to which they are submitting. I recently had a manuscript, submitted by a sociologist, which looked at the interesting question of whether tax limitation referendums might be motivated in part as a response to court decisions that have implications for property taxes. The author began the paper discussing the general issue of tax limitation referenda. However, what made the manuscript potentially relevant for *Law & Society Review* was not the general issue of tax referenda but whether court decisions might directly affect voters’ decisions on referenda, whether they be tax referenda or referenda on other kinds of issues. The author’s decision to pitch the article to readers most concerned about tax referenda made sense if the manuscript were being submitted to a policy journal or perhaps a general social science journal; however, for *Law & Society Review*, the pitch should have been on the impact of courts. The core analysis would be the same but the set up would be different. (In fact, the manuscript as written received positive responses from the readers, and part of my revise and resubmit letter asked the author to reframe the paper so it would be more appropriate for *LSR*.)

One gap that some political scientists (and economists) may see in the content of *Law & Society Review* is the scarcity, or perhaps absence, of work using a rational choice approach. There was a recent manuscript I was very interested in pursuing, but I wanted the author to frame the article a bit differently to make it appeal to a broader audience. The author had framed the piece in terms of a particular U.S. case and I felt the article would have broader appeal if framed in terms of a broader issue that confronts constitutional courts around the world. Assuming I correctly understood what the author was doing, such a reframing would not have changed the author’s model or analysis. I also wanted the author to rework the presentation to make the article accessible to persons not working in the more mathematical mode of rational choice, probably 99 percent of the readership of *Law & Society Review*. I felt that the article had significant potential to demonstrate to non-rational choice scholars how rational choice can provide important insights into phenomena of broad interest. In the first round of reviews, there had been some initial questions about the model, and my instructions in the revise and resubmit letter focused heavily on this and failed to make as clear as I probably should have the importance of reframing away from the U.S. case. After the second round of reviews, the author decided not to proceed with the revisions I wanted even though I indicated that I would likely make a publication decision without seeking any additional reviews or would at most ask one of the previous reviewers to read the revision.

About 15 percent of articles submitted to *Law & Society Review* are eventually accepted. I reject without review articles that really belong in a traditional law review; articles that are way beyond the length of what I feel I can publish; occasionally I reject articles that simply do not fit. I invite authors who are uncertain about whether their manuscript is appropriate for *LSR* to send me an email inquiry describing their manuscript. If, based on the author’s description or abstract, I believe that manuscript is a reasonable candidate for *LSR*, I so advise the author; if not, I will often suggest alternative outlets that I think might be appropriate.

I normally request four reviews for each manuscript, and will make a decision based on as few as two although on a couple of occasions, I have made a decision based on a single review when I find myself strongly agreeing with the reviewer and the author has been waiting a long time. (On both those occasions, a second review finally came in within two or three days of my decision, and it was consistent with the decision.) Very few articles submitted to *Law & Society Review* are accepted on the initial submission. Of those that receive a revise-and-resubmit and are resubmitted, the acceptance rate is between 50 and 60 percent. I try to provide the author with fairly detailed instructions on what to do in the revision, particularly when the reviews give contradictory advice, and I ask that the author resubmitting a manuscript provide a memo detailing the changes made and how those changes respond to the issues raised in my letter and the reviews. An issue that sometimes arises in the revision is that the manuscript grows beyond the length I can publish; if the manuscript receives a positive response on the second round and I want to accept it, I will accept it on the condition that the author does some serious cutting.

*Law & Society Review* employs a web-based system for manuscript submission, soliciting reviews, and providing decisions to authors. This saves time and money. By cutting out the movement of hard copies of manuscripts and correspon-

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dence, we have taken at least two weeks off the time from when a manuscript is submitted by an author to the receipt of a decision by the author. Our average time from submission to decision is about seven weeks (this does not count manuscripts rejected without review); 75 percent of the manuscripts receive a decision within two months, and 90 percent within 10 weeks.

A final point is that I do not see my role as an editor as that of a vote counter. I do not make my decisions by simply tallying the responses of reviewers. I see reviewers as advising the editor. I have on a number of occasions declined manuscripts that produced a set of reviews that was entirely positive. This can happen because I see some issues in the manuscripts that the reviewers failed to see, most likely some methodological problems. Or, my judgment is that the paper is better placed in a more specialized journal. The latter happens most often with fairly applied criminal justice pieces, which are often technically quite good, but really speak only to criminologists.

*LAW & SOCIAL INQUIRY: AN OVERVIEW*  
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It is a demonstration of the strength of the field of law and society that the conference panel that preceded this symposium was convened and well attended. It seems safe to say that law and society is no longer an “emerging” field comprised of scholars who feel marginalized within their disciplines, but rather has become a field of inquiry in its own right. As such, the empirical study of the relationship between law, society, legal institutions, legal processes, legal actors and politics takes on new significance.

*Law and Social Inquiry: Journal of the American Bar Foundation (LSI)* is one of the many academic programs at the American Bar Foundation (ABF). The ABF is an independent research institute dedicated to the study of law, legal institutions, and legal processes. It has a residential faculty of twenty two Research Fellows, who are full-time or are jointly-appointed with academic departments or schools at the University of Chicago, Northwestern University, and the University of Wisconsin, Madison. In addition to pursuing our own academic research agendas, there are a number of academic programs at the ABF, one of which is the publication of *LSI*.

*LSI* is an interdisciplinary, refereed, quarterly journal edited by a rotating staff of the residential research faculty at the American Bar Foundation and currently is published by the University of Chicago; although in the very near future, Blackwell will take over publication. *LSI* is in its thirtieth year in print and publishes a variety of features in addition to standard scholarly articles.

*LSI* publishes original empirical research on law, legal institutions, and legal processes broadly conceived. We prefer articles grounded in theory – be it the theory of a particular discipline or the theory of the interdisciplinary field of law and society – that make an empirical contribution to the field. Under some circumstances, *LSI* will publish pure theory or jurisprudence though we do not publish doctrinal analysis of the variety that typically appears in law reviews.

In the past few years, we have published articles that range in topic from law and social order in postcolonial South Africa to the relationship of race and gender in law school performance and bar passage, to the consolidation of sexual identity in 20<sup>th</sup> century American immigration law.

In addition to articles, *LSI* publishes symposia which consist of a collection of articles on one topic. All of the articles that appear in our symposia go through the standard referee process. In recent years symposia have been published on legal consciousness and violence between intimates in the global era.

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We occasionally have a feature entitled, “From the Trenches and Towers” which invites academics and practicing lawyers to engage one another on a particular topic. Most recently, we published a Trenches and Towers feature on questions about ethics in the practice of law and multi-disciplinary practice in the post-Enron era.

Finally, *LSI* features a review essay section, edited by University of Wisconsin, Madison law professor and the Law & Society Association’s former President, Howie Erlanger. *LSI*’s review essays are unique because, instead of focusing on one book, the review essays often serve as summaries of sub-fields of law and society. Although firmly anchored around a book or two and providing the standard elements of a book review, the essays go beyond typical book reviews and make important interventions in scholarly debates.

In addition to the standard scholarly subscriptions to libraries and individual subscribers, *LSI* is distributed to many of the Fellows of the American Bar Foundation — about 1200 practicing lawyers in leadership positions within the bar. This readership means that articles with policy implications are read by practitioners in the area and those poised to make policy interventions.

As traditional legal academia is increasingly interested in learning from and performing empirical research on law, it is important to publish where the work can be accessed not just by those within political science, but also by legal academics. Electronic access to *LSI* is available on a number of platforms including Lexis, Westlaw, JSTOR, and Hein Online which all feature full-text searches and availability of *LSI*.

Authors do not just want people to be able to read their articles, however, they want people to use their articles in subsequent scholarship. Citation rankings, while inherently problematic, provide a rough measure of the degree to which scholars in the field use different journals. A good source of information about law-related journals is available at the Washington and Lee library website (available at: <http://law.wlu.edu/library/mostcited/index.asp>) which uses Shepard’s citations to measure the impact of journals in a variety of law-related fields. These data demonstrate that *LSI* is among the most cited refereed empirical journals in law reviews, ranking 9<sup>th</sup> out of the hundreds of refereed law-related journals.

In addition to availability and use, *LSI* is a great place to publish because the editors are dedicated to respecting disciplinary differences among scholars, which means that articles need not be shaped to fit a pre-determined format. If the article is of the highest quality, we are willing to publish longer pieces to accommodate the kind of qualitative data preferred by some sociologists, political scientists, historians, and anthropologists.

We are committed to encouraging younger scholars and do so by working closely with them in the editorial process and by having an annual graduate student paper prize competition. Manuscripts are due in February and the winner of the competition is awarded \$500 as well as having the piece published in *LSI*.

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THE ONLY GENERAL, PEER-REVIEWED JOURNAL ON LAW & POLICY

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A multidisciplinary journal published quarterly, *Law & Policy* publishes innovative contributions to contemporary policy dialogues. Articles typically draw upon empirical data and social science methods to analyze the role of law in public policy and to suggest changes or reformulations in policy. Articles also explore how legal institutions affect policies or suggest different theoretical perspectives for understanding the role of law in social control and institutional behavior. The journal embraces a variety of research methodologies and encourages analysis of legal policy issues in countries worldwide, as well as in the United States and Great Britain. Recent articles published in *Law & Policy* have examined substantive policy topics in family law, school violence, regulation, and toxic torts. Articles have also focused on particular legal actors or institutions such as juries, problem-solving courts, or state attorneys general.

Editors of the journal have come from political science, sociology, law, and management. The current co-editors are from law and society (Keith Hawkins, Oxford University) and law and psychology (Murray Levine, University at Buffalo, SUNY), while *Law & Policy*'s founding editors were both political scientists. During the journal's 27 years, the editorial board has always represented a variety of disciplines. Political scientists constitute 20 percent of *Law & Policy*'s current editorial board and often publish in the journal. Regular contributors to *Law & Policy* also come from law, sociology, psychology, criminology, geography, economics, and other fields. Multidisciplinary is clearly one of the journal's key features.

A second feature of the journal is its international scope and focus. *Law & Policy* has an excellent record of publishing research by non-U.S. based scholars; about 40 percent of the contributors in the last five years have come from outside the United States, with particularly strong representation of authors from Britain, Australia, and Canada. The journal also frequently features comparative analyses of legal policy issues. Examples include special issues of the journal devoted to regulation and enforcement in the U.S. and Japan; marriage and cohabitation policy in the North America and the U.K.; law, technology, and development; and lay participation in the legal system in Spain, Russia, and elsewhere. The journal is committed to a global perspective in its scholarship and this has led to a strong international readership.

A third feature of *Law & Policy* is its pattern of publishing special or thematic issues. The topics above illustrate the fact that the journal often publishes a collection of articles that bring together scholarly contributions on a common theme but from different countries or disciplinary perspectives. These symposia have the advantage of providing greater depth and breadth to our understanding of a legal policy issue. Authors present their own data and arguments, but the different articles are then synthesized and compared by a guest editor who pulls the special issue together. Publication of an article in a symposium issue tends to bring greater visibility to it than if it had been published alone. And readers appreciate the convenience of finding a number of different studies on the same topic all in the same issue.

Finally, we call attention to the theme of regulation as a traditional strength of *Law & Policy*. The journal has long been concerned with the role of legal and non-legal norms in shaping behavior. Thus it has published path-breaking studies of compliance by political scientists and perceptions of law by psychologists. Other topics in this area include regulatory innovation, industry self-regulation, business adaptation to legal regulation, and judicial versus administrative enforcement of regulation. Regulation of individual behavior through criminal punishment and social institutions such as schools provide another rich area of scholarship that is often explored in the journal.

Readers of *Law & Policy* tend to be scholars and students from the social sciences and law, and law and society, particularly those interested in approaching policy issues from different points of view. Over 30 percent of our institutional subscribers are located outside of the United States and additional subscribers worldwide have online access through library consortia. The journal encourages a lively interchange between empirical analysis of case studies or aggregate data with theory and policy prescriptions. Although we invite policymakers to consult the journal, we recognize that the

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academic discourse and theory may discourage those who wish a simple soundbite on a current policy topic. The journal does seek to minimize specialized academic jargon, however, to provide the broadest readership possible.

Legal scholars constitute another important group of readers for the journal. The world of law journals has changed substantially since *Law & Policy* was founded in the late 1970s. It is important to distinguish *Law & Policy*, an established, refereed journal, from the many student-run law journals with similar titles. Given the recent explosion of specialized law journals in the United States, many journals now sound alike. Indeed, according to the latest Washington & Lee Law School listing of the “most-cited legal periodicals” in the U.S. and abroad, there are now 56 law journals that have the words “law” and “policy” in their titles. But students edit most of these journals and articles are not peer reviewed. Indeed, only 11 of the 56 “law” and “policy” journals are refereed by scholars and of those 11, *Law & Policy* is the *only general* journal of law and policy. The others specialize in substantive policy topics such as law and health policy, labor law and policy, or environmental law and policy. Through its position as a general, refereed, journal of law and policy, *Law & Policy* is able to develop analyses that cut across substantive areas and consequently offer more robust theory, a broader understanding of how law operates, and better policy suggestions. This broader perspective should appeal especially to political scientists who do not want their work to be pigeonholed as of interest to only one subfield.

In terms of the specifics of submissions, *Law & Policy* does not allow multiple submissions, has a style sheet available online, and requires electronic copies of manuscripts to facilitate review (see Information for Contributors at <http://www.law.buffalo.edu/baldycenter/lawandpolicy.htm>). Authors are also encouraged to seek informal feedback from the editors about possible manuscript submissions. Major administrative changes over the past year have improved both the review and the production processes. Articles typically receive three blind reviews, and the average turnaround time on general articles in 2004 was under eight weeks (i.e. the time between receipt of a manuscript and the disposition decision). Articles submitted for special issues take longer because of the need to coordinate all of the articles. The journal is published by Blackwell and is appearing on time with issues in January, April, July, and October.

The Editorial Office of *Law & Policy* is located at the Baldy Center for Law and Social Policy, an interdisciplinary research center at the University at Buffalo Law School, SUNY, Buffalo, New York. The Baldy Center has been co-owner of the journal with Blackwell for over two decades. The current editors, Keith Hawkins and Murray Levine, will be stepping down at the end of 2006 and a search is underway now for their successors. As Director of the Baldy Center, I am chairing the search committee and working with the current editorial board to identify possible candidates. We would like to continue to have co-editors for the journal in order to facilitate geographic and disciplinary diversity. New editors will have the opportunity to build on the journal’s strong reputation while also perhaps opening up new directions for it. I welcome inquiries from anyone interested applying for the editorship.

In its inaugural issue, the editors of *Law & Policy* articulated their commitment to publishing rigorous empirical and theoretical research on “important policy issues,” and in a form that is “readily intelligible” to diverse audiences. With the increased global reach of contributors and readers, that goal becomes more challenging - yet also more crucial - than ever.

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WHY DO EMPIRICAL LEGAL SCHOLARSHIP?  
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This essay focuses on the demand for and reaction to scholarship that helps inform litigants, policymakers, and society as a whole about how the legal system works. Cornell Law School, in collaboration with Blackwell Publishers, started in 2004 the *Journal of Empirical Legal Studies*, (*JELS*) the only peer-reviewed (or non-peer-reviewed) journal dedicated solely to the publication of law-related empirical legal studies.

Because I am most familiar with them, I will primarily address responses to empirical scholarly articles published in *JELS*. I in no way mean to downplay the importance of empirical work in other fora. But the fact that a new, peer-reviewed journal, in its first year of operation, has generated so much elite media interest may say as much about the thirst for systematic knowledge about the legal system as it says about the particular journal.

Reaction to studies appearing in *JELS* (and, of course, elsewhere) suggests that society's demand for serious, law-related empirical scholarship far exceeds what the legal academy has been willing or able to supply. Articles in *JELS* already consider issues with respect to which policymakers and media demand empirical information. High-end media entities such as *The New York Times* (Glater 2004; Liptak 2004), *The Wall Street Journal* (Bravin 2004), *The Atlantic Monthly* (2004), *The Economist* (2003), *The Financial Times* (Koster 2004), *Congressional Quarterly* (Stern 2004), and others have run stories with substantial content based on articles published or to be published in *JELS*. People sometimes talk about a new genre of legal scholarship and empirical legal studies have been made the theme of the 2006 annual meeting of the Association of American Law Schools. The genre has long existed, but it may now be beginning to come into its own.

What are some of the current issues that empirical scholarship can shed light on? Leading media have found contributions in both criminal and civil law.

On the criminal law side, in 2000, Professor James Liebman and colleagues at Columbia University issued a massive report on the rate of error in the capital punishment system. They found that two out of three death penalty convictions were overturned on appeal. As the *New York Times* put it on June 12, 2000, the reversals were "mostly because of serious errors by incompetent defense lawyers or overzealous police officers and prosecutors who withheld evidence." For a few years, this work, though available online via large .pdf files went unpublished. The Columbia group assembled key findings into an article-length version appearing in the July 2004 issue of *JELS* (Gelman et al. 2004). Additional substantial news coverage accompanied a *JELS* article showing that Texas obtains death sentences at a rate not materially different than that of most other states (Blume et al. 2004).

On the civil side, empirical scholarship has helped inform several topics. These include the decline in civil trials, long-term trends in award levels, the outcome of employment discrimination cases, time-trends in class actions, and fee awards in large Chapter 11 bankruptcy cases.

In December 2003, *The New York Times* took the unusual step of running a front-page story, by Adam Liptak, on a conference on the state of trials in the United States. The conference addressed the topic of the disappearance of trials in federal courts. The *Times*, summarizing a study by Marc Galanter, reported that, in 1962, 11.5 percent of all civil cases in federal court went to trial. By 2002, that rate had dropped to 1.8 percent. And even though there are five times as many lawsuits in 2002 than 1962, the raw number of civil trials dropped as well. They peaked in 1985 at 12,529. In 2002, 4,569 civil cases were tried in federal court. The papers presented at that conference address many aspects of the pattern of disappearing trials. The papers were published in the November 2004 issue of *JELS*.

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Nicholas Pace, Seth Seabury, and Robert Reville of the RAND Institute for Civil Justice used data assembled by RAND to study the long-term trend in tort awards in the two major locales for which such data were available—San Francisco and Cook County. They reached a remarkable conclusion, published in the first issue of *JELS*. Tort awards over a 40 year period had increased *less* than real income (Seabury et al. 2004).

In April 2004, the Bureau of Justice Statistics (BJS) issued a report on trial outcomes in 46 of the largest counties in the United States in calendar year 2001. The study is consistent with the major time-trend findings by Galanter and the RAND researchers. The vast majority of the counties in the 2001 data were the object of a similar BJS study covering fiscal year 1992 and calendar year 1996. The BJS found that trials had declined in number since 1992 by 47 percent and that, in real dollars, median tort awards had substantially declined since 1992.

In July 2001, *The Wall Street Journal* reported findings on striking differences in appeal rates between plaintiffs and defendants in employment discrimination cases (Bravin 2001). The research underlying the report culminated in a comprehensive study of federal employment discrimination cases in *JELS* (Clermont & Schwab 2004).

A *JELS* article on class actions also generated news coverage. The article found that attorney fees in class action cases have not increased over the course of a decade, that class recoveries have not increased over the same period, and that the client class recovery is the factor that most clearly explains the size of the fee award (Eisenberg & Miller 2004). The results were picked up by many publications.

In the area of bankruptcy, Lynn LoPucki and Joseph Doherty studied professional fees in large Chapter 11 cases (LoPucki & Doherty 2004). They found the fees in large Chapter 11 cases from 1998 to 2002 were substantially lower than they had been 20 years earlier, and that fees absorbed on average less than two percent of debtors' assets.

Across a broad range of legal issues, empirical studies can inform policymakers and the public. Legally trained social scientists have unique opportunities to enhance description and understanding of the legal system. Law schools aspiring to train future leaders should expand and regularize instruction enabling their graduates to perform the analyses that society thirsts for.

*\*Henry Allen Mark Professor of Law, Cornell University. For more extensive remarks related to those in this essay, see 41 San Diego Law Review 1741 (2004).*

*JUDICATURE: THE JOURNAL OF THE AMERICAN JUDICATURE SOCIETY*  
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*Judicature* is the oldest of the journals represented in this symposium. Published continuously since 1917, *Judicature* serves as a bimonthly forum for analysis and comment on current issues being shaped in and by our justice system. Included are scholarly articles, notes, opinion pieces, and book reviews.

*Judicature* is unique in terms of its audience and authors. It is sent to all members of the American Judicature Society, who are predominantly judges and lawyers, and thus most of our readers are practitioners as opposed to academics, which is of course not to say we do not have a large academic readership. Some of the authors are also judges and lawyers, but most are political scientists or other academics. Thus, authors are not writing primarily for their academic colleagues as is the case with most other journals.

This means our approach to articles is a little different. Although *Judicature* is a scholarly publication, we try to ensure that material can be understood by all readers. As much as possible, emphasis is given to some of the practical implications of research results and examinations of issues affecting the justice system, as opposed to strictly theoretical discussions.

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The stated goal of the American Judicature Society is to improve the administration of justice, and we hope in one way or another that the material in *Judicature* contributes to that end. This does not mean we are a “how-to” publication, far from it. Rather, we try to provide material that broadens readers’ perspective and understanding and helps them think about everyday and emerging issues in new ways.

I do not particularly like the term, but *Judicature* does try to be “reader-friendly.” We use photos and illustrations. Our articles are relatively short – typically 2500-3000 words. We try to keep footnotes to a minimum – 10-15 in a typical article – and we prefer that authors avoid extended discussion in the notes. We use tables and figures in moderation. And we try to minimize quantitative analysis and explanations of methodology. Perhaps a key word to describe *Judicature* articles is “accessible.” Basically that means that articles can be read and understood by any reasonably well-educated person without specialized knowledge.

Since *Judicature* is a peer-reviewed journal, it is important that authors convince their peers, as well as the academic readership, that the work is solid. It must be, and appear to be, carefully grounded in the literature and based on thorough analysis. It cannot be just opinion, although we have a section called Viewpoint that requires somewhat less rigorous scholarship. As for peer-review, manuscripts are reviewed anonymously by two or three people who I believe are appropriate; we do not have an editorial board.

The primary or core issues of the American Judicature Society are judicial selection, judicial independence, conduct and ethics, enhancing the jury system, improving court operations, and increasing public understanding and appreciation of the justice system. But those are very broad categories and the range of subjects covered in articles in *Judicature* is likewise very broad. If you look at our index, which is available online, you will see the variety of issues we treat — administrative law, alternatives to adjudication, citizens and courts, constitutional interpretation, court structure, judicial compensation and tenure, judicial history and philosophy, juvenile justice, legal profession, media and courts, public interest law, victims and witnesses, and women judges, to name a few. In short, most anything relating to or affecting the courts and judges, other than substantive law, is appropriate for *Judicature*.

An academic might ask, why publish in *Judicature* as opposed to another journal? Part of the answer is, I think, the fact that in *Judicature* authors are communicating to such a diverse audience and extending their thinking and research beyond the academy. *Judicature* articles are often cited in court opinions and in articles written by lawyers and judges. And I receive numerous requests for permission to copy and distribute articles at conferences, seminars, etc. And with our readership of about 6500, authors are reaching a fairly large audience as well. In addition, and importantly, I believe *Judicature* is respected by the academic community.

Let me also mention that publishing in *Judicature* does not have to be an either/or situation – sometimes authors can get a couple of publications out of the same work. A longer, more detailed, more empirical version appearing in another journal can often be adapted for *Judicature*.

Most *Judicature* articles are unsolicited, although I often invite people who are working and writing on a particular topic to submit something for our consideration. And we do publish some symposium issues, in the past on such topics as wrongful convictions, sentencing, and tribal courts; most of the articles in those issues are invited. We work closely with authors regarding the editing. They are given every opportunity to review and approve what ultimately goes into the journal.

Illustrating the type of work published in *Judicature*, and demonstrating its usefulness in the classroom, is the collection of articles *Judicial Politics: Readings from Judicature*, the third edition of which was published recently by CQ Press. Edited by Elliot Slotnick of The Ohio State University, it is designed for undergraduate courses in judicial politics. This compilation, which has proved popular and useful in its first two editions, further demonstrates how *Judicature* is both scholarly and accessible. For further information, visit [www.ajs.org](http://www.ajs.org).



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THE FOCUS AND AUDIENCE OF THE *JUSTICE SYSTEM JOURNAL*

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The *Justice System Journal* is a vehicle for articles and notes about courts and court administration that are likely to be of interest to practitioners and researchers in the field of judicial administration, broadly defined; its subject can be said to be “theory and practice about courts,” as a former editor stated it. The *Justice System Journal* has as its primary audience court administrators and academics interested in court administration; as another former editor put it, its intent was to link “thoughtful practitioners and practical academics” (Gallas 2004 296).

The Institute for Court Management (ICM), based in Denver, originated, and initially sponsored, *Justice System Journal*. When ICM was folded into the National Center for State Courts (NCSC) in Williamsburg, Virginia, NCSC became the *Journal's* sponsor. (The *Journal* is printed as a public service by Thomson/West.) The editors, who have been academics and practitioners, have, with one exception, not been affiliated with ICM or NCSC, so that the editorial offices reside elsewhere than NCSC's headquarters. The editorial board is composed of roughly equal numbers of academics and practitioners, the latter including judges, court administrators, lawyers, and policy analysts. The managing editor, Chuck Campbell, is a member of the NCSC staff. In short, although NCSC is *Justice System Journal's* official headquarters and provides a home and some support for it, the *Journal* is not a National Center house-organ and NCSC does not control content; moreover, items submitted by its staff receive the same review as do other submissions.

What about content? The *Journal* has maintained as its focus “court administration”—what we like to call “judicial administration broadly defined”—but under its two most recent editors-in-chief there had been some increase in materials from criminal justice, an emphasis that will now be decreased as the *Journal* moves back closer to its court administration origins. Of particular importance is that articles that appear in *Justice System Journal* are relevant for those in the court administration community, and effort is taken to make such relevance explicit. To that end, authors whose work is not on traditional court administration topics will be required to suggest, in their introduction and conclusion, the connection of their work to court administration.

More specifically, a review, undertaken for the twenty-fifth volume (Moyer 2004), indicated areas of significant concentration. These have been court administration and management, with subcategories such as judicial personnel, which includes a continuing interest in judicial selection; “court organization and structure, budget and finance, and technology”; special courts, which includes juvenile courts and other alternative courts as well as alternative dispute-resolution (ADR); civil and criminal case-processing; and comparative analysis and federal court - state court relations have also received notable attention (Moyer 2004).

Whatever the subject, The *Journal* is especially interested in manuscripts that have implications for justice system policy and that address problems faced by those with responsibility for court administration. These can be reports of relevant research or evaluations of projects at courts, with short articles written by practitioners or researchers that describe management innovations in court systems encouraged. Initially, the journal “was to be oriented by the world of practice and skillful application of theory, concepts, and research findings toward improvement of courts and the interdependent justice system in which courts are embedded” (Gallas 2004, 296), but while there is “continuing interest in court improvement” (Hanson 2004, 303), it is at best implicit.

In addition to articles about research, projects or programs, short manuscripts analyzing cases or legal issues of particular relevance to judicial administration are welcome and will be considered for our Legal Notes, which examine cases selected for their implications for court administration. We also present short notes on books not receiving full reviews, but, more important, we also present such notes on articles from other journals which we believe will be of interest to our readers, an idea “borrowed” some years ago from a sociology journal. Despite the easier access to a wide range of journals via the Internet, we think this practice is still useful as a matter of convenience of access for our readers.

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Those of us involved in the *Justice System Journal* believe that it is important to expose court administrators to high-quality social science research concerning the judicial process. Indeed, the Journal has increasingly become an “outlet of choice” for those, primarily political scientists, who conduct research on “judicial process” and wish to place it in a peer-reviewed journal, and this explains why the Journal “has been . . . a social science journal about courts, with some court management flavoring, rather than a court management journal with social science and other flavors.” (Wheeler 2004, 299) We would, however, like to increase the proportion of articles by court professionals, but, after all, practitioners have day jobs so we find that most submissions have been by academics and other social scientists. Both to facilitate the inclusion of work by practitioners and to provide material other than the standard 35- manuscript-page research-based article, we have replaced a section called “Management Notes” with an expanded and newly-titled section, “From the Benches and Trenches” for short(er) pieces written by practitioners about specific programs and projects. We hope to cast the net for the “From the Benches and Trenches” rubric somewhat more widely, to include accounts of the operation of institutions. Thus, in a recent issue, three judges wrote about state intermediate appellate courts, and there was an account of a problem-solving court.

Articles may draw on a variety of research approaches in the social sciences, and the *Journal* is multi-disciplinary, having incorporated research not only from political science and public administration but also from sociology, criminal justice, and psychology. Moreover, “articles have ranged from sophisticated quantitative analyses to prescriptive management essays and from qualitative case studies to traditional legal analyses” (Moyer 2004, 253). We now abjure prescriptive work, and the *Journal* does not normally publish extended analysis of legal doctrine. As to quantitative work, we believe those whose manuscripts are “good social science” can be expected to translate their sophisticated statistical analyses into language easily understandable by the *Journal’s* primary audience and place the high-powered statistics in the background by placing methodological discussion in an Appendix, with an alternative being a footnote indicating that such discussion is available on request from the authors. Indeed, we have suggested to some authors that they prepare two versions of their work: one, to be sent to mainline social science journals, with all their statistical work, and the other, directed to a broader audience that lacks statistical sophistication and more policy-focused, to be submitted to *Justice System Journal*.

What about the place of theory in work published by the *Journal*? Of course, theory might well lead some of our authors to the questions they wish to explore, but so, too, would practical everyday problems. While we would expect authors offering hypotheses to derive them from the extant literature, as would be true in any good social science, we do not make “heavy-duty theoretical demands” on our authors. In that sense, we might be said to some extent to be *Law and Society Review* or *Law and Social Inquiry* without the theory.

Most of what *Justice System Journal* publishes is the result of submissions from authors. However, some of our editorial board members “head-hunt” to find material the submission of which they encourage, for example, papers presented at meetings like these. Even if a submission has been encouraged, it is nonetheless submitted to the full peer-review process. Articles are peer reviewed in the regular way, and our practice is to attempt to include at least one practitioner among those who review each manuscript.

We also have a number of special issues – usually one out of our three issues per year— on particular topics. In recent years, these have included court administration (derived from an APSA panel) and federalism and the courts (the result of a University of Georgia conference). The next two will be on dispute resolution (to appear late this year) and on technology in courts; the latter is under the special issue editorship of Stephen Meinhold of University of North Carolina - Wilmington. For these, rather than using a call for papers, the editor of the special issue solicits manuscripts, which are sent to reviewers for comments that the authors are asked to consider as they revise, and there is a presumption (even if a rebuttable one) of publication.

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LPBR: THE JOURNAL OF CHOICE FOR REVIEWS OF BOOKS ON LAW, COURTS & POLITICS

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*The Law & Politics Book Review* is sponsored by the Law and Courts Section of the American Political Science Association. Because it is published on the Web, reviews are immediately accessible, and readers receive notices of reviews as they appear. The Section is one of the largest in the APSA, with a membership of about 900, and currently the *Review* has more than 1,400 subscribers in 41 countries. The electronic medium enables us to review almost every book about the legal process and politics, to do longer reviews than are usually published, and usually to make the reviews available within six months of our receipt of the book. The *Review* presently remains available for an indefinite period on the World Wide Web [currently <http://www.bsos.umd.edu/gvpt/lpbr>]. We are currently publishing an average of 15-20 book reviews each month. Our readership clearly extends beyond the formal subscription list, as the *Review* webpage welcomes about 2000 visitors per month.

Launched in 1991, under the extraordinary leadership of founding editor, Herbert Jacob (1991-1996), *LPBR* quickly achieved recognition as a high quality professional journal. Subsequent editors, C. Neal Tate (1996-1999) and Richard Brisbin (1999-2002), continued the tradition of excellence and expanded the reach and audience of the *Review* considerably. In its first year (March-December 1991), 40 reviews were published, and during the next several volumes, the average was about 50-75. That number increased substantially to 150-175 in the late 1990s, and we are currently running well over 200, with a focused edition, under special editors Sue Davis and Cornell Clayton, devoted to Constitutional Law and Civil Liberties case books, forthcoming.

*LPBR* is easily distinguishable from other journals in the field, because its primary focus is the review of books. Our goal is to provide authors and compendium editors with critical soundings of their scholarship from academic peers within a reasonable time of publication and to offer the larger community of scholars an open window to current research in Law and Politics in its various forms.

What constitutes Law and Politics? This is a hard one to pin down precisely, because the *Review* casts a wide net, and its reach is truly interdisciplinary. Political Science represents the core, but the review publication list includes a substantial number of books from related disciplines, including Law, History, Sociology, Psychology, Philosophy, Criminology, Economics, and Geography. Books on U.S. Law & Politics outnumber others, but there is an increasing quantity of work dealing with international law, human rights, and comparative law, in addition to those focusing on single systems, especially Canada, the UK, and countries in Asia. Published reviews include books with a research and/or intellectual focus as well as those primarily projected for classroom use.

The intended *LPBR* audience consists of academic members of the Law & Courts Section, and this is reflected in the authorship of books reviewed as well as the credentials of reviewers, both of which are skewed toward PhDs in Political Science, with a significant presence of academic lawyers. The real audience extends to members of a range of sister disciplines, graduate and law students, librarians, publishing house editors, and legal practitioners.

Given the mission and intended audience of the *LPBR*, every effort is made to secure a peer review – that is an analytical and critical reading by a reviewer with academic interest and expertise in the relevant subject matter and research approach, with a bias in favor of PhDs in Political Science. Given the high standards expected by the readership and editorial board, the *LPBR* encourages reviews that are well written and analytical and discourages those that do little more than report on a book's contents. Unsolicited reviews are not accepted. All reviews are commissioned by the editor, who maintains a file of prospective reviewers and their interests. Colleagues wishing to contribute to the community as a reviewer should contact me and/or complete the brief form located on the *LPBR* website: <http://www.bsos.umd.edu/gvpt/lpbr/subpages/reviewer.htm>.

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# BOOKS TO WATCH FOR

KEITH J. BYBEE

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**Congress and the Constitution** (Duke University Press), edited by **Neal Devins** (William & Mary Marshall-Wythe School of Law) and **Keith E. Whittington** (Princeton University), extends the examination of the Constitution outside the courts to the federal legislature. For more than a decade, the U.S. Supreme Court has turned a skeptical eye toward Congress. Distrustful of Congress's capacity to respect constitutional boundaries, the Court has recently overturned federal legislation at a historically unprecedented rate. This intensified judicial scrutiny highlights the need for increased attention to how Congress approaches constitutional issues. In this volume, scholars in law and political science examine the role of Congress in constitutional interpretation, demonstrating how to better integrate the legislative branch into understandings of constitutional practice. Contributors include David Currie, Bruce Peabody, Louis Fisher, Keith Whittington, Michael Gerhardt, John Yoo, Mitchell Pickerill, Michael Klarman, William Eskridge, John Ferejohn, Neal Devins, Elizabeth Garrett, Adrian Vermeule, Mark Tushnet, and Barbara Sinclair.

From Louis Brandeis to Robert Bork to Clarence Thomas, the nomination of federal judges has generated intense political conflict. In **Advice and Consent: The Politics of Appointing Federal Judges** (Oxford University Press, forthcoming September 2005), **Lee Epstein** (Washington University) and **Jeffrey A. Segal** (Stony Brook University) offer a brief guide to this highly important process of judicial appointment, discussing everything from constitutional background, to crucial differences in the nomination of judges and justices, to the role of the Judiciary Committee in vetting nominees. Though it is often assumed that political clashes over nominees are a new phenomenon, the authors argue that the appointment of justices and judges has always been a highly contentious process — one largely driven by ideological and partisan concerns. They examine how presidents and the Senate have tried to remake the bench, ranging from FDR's controversial "court packing" scheme to the Senate's creation in 1978 of 35 new appellate and 117 district court judgeships, allowing the Democrats to shape the judiciary for years. The authors conclude with possible "reforms," from the so-called nuclear option, whereby a majority of the Senate could vote to prohibit filibusters, to the even more dramatic suggestion that we eliminate a judge's life tenure either by term limits or compulsory retirement.

Those looking for a way to introduce lower-division undergraduates to the study of the Supreme Court may wish to examine **The Supreme Court: Rulings on American Government and Society** (Lanahan Publishers) by **Jack Fruchtman Jr.** (Towson University). The text is designed to fill a gap in undergraduate studies of Constitutional Law and the Supreme Court. Included are about thirty representative cases concentrating on five major areas: the separation of powers, free expression, the religion clauses, equal protection, and privacy. Although some are foundation cases, most of the selections are of more recent vintage to give a basic understanding of the work of the contemporary Court.

**Scott Douglas Gerber** (Law College, Ohio Northern University) has written a legal thriller, **The Law Clerk**, that will be published in hardcover in October by Seven Locks Press. The novel is centered around Sam Grimes, a recent law school graduate heartbroken by a romance gone badly. Searching for new horizons, Sam accepts prestigious clerkship with a federal judge in Providence, Rhode Island. In his new capacity as a law clerk, Sam quickly finds himself both falling in love with a beautiful young woman he met at the courthouse and working on the trial of the decade in New England: the obscenity trial of Joey Mancini, the son of the Mafia boss of the region. And as Sam is about to find out, one thing has everything to do with the other.

In his forthcoming book, **When Courts and Congress Collide: The Struggle for Control of America's Judicial System** (University of Michigan Press), **Charles Geyh** (Indiana University School of Law) explores the nature and extent of the federal judiciary's independence from and accountability to the United States Congress. **Geyh** argues that the considerable independence federal judges enjoy is attributable less to constitutional structure than to the emergence and entrenchment of institutional norms that shield the federal judiciary from Congressional encroachments. The customary independence that these norms foster is in constructive tension with a countervailing impulse to render the judiciary acquiescent to

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Congressional will. According to **Geyh**, the ascendance of post-legal realist thinking, grounded in the belief that independent judges disregard the law and implement their political predilections, has put longstanding independence norms in a state of flux, portending an uncertain future for judicial independence.

In her book **Disabling Interpretations: The Americans with Disabilities Act in Federal Court** (University of Pittsburgh Press), **Susan Mezey** (Loyola University Chicago) explores the role of the federal judiciary in disability policymaking in the United States, focusing on judicial interpretation of the 1990 Americans with Disabilities Act (ADA). **Mezey** examines ADA litigation against public entities, owners of public accommodations, and employers. She concludes that, despite the strong civil rights rhetoric in the law, the ADA has not fulfilled its potential as a civil rights law largely because of the judiciary's constrained interpretations of the Act.

Americans often believe that the First Amendment and free speech are synonymous and that all restrictions on speech can be addressed by the legal framework of the First Amendment. In his book **Beyond the First Amendment: The Politics of Free Speech and Pluralism** (Johns Hopkins University Press), **Samuel P. Nelson** (University of Toledo) argues that the current legal framework for free speech actually undermines attempts to resolve issues and that the law of the First Amendment has supplanted the vital politics of free speech. In an effort to understand the social nature of speech, **Nelson** examines three philosophies commonly used to justify speech protection—libertarianism, expressivism, and egalitarianism—and finds none of them sufficiently responsive in today's contemporary political landscape. The author consequently advocates an approach grounded in value pluralism — an approach that describes wider variety of free speech claims than the First Amendment allows and moves debate beyond constitutional and legal questions.

**Institutional Games and the U.S. Supreme Court** (University of Virginia Press), edited by **James R. Rogers** (Texas A&M University), **Roy B. Flemming** (Texas A&M University), and **Jon R. Bond** (Texas A&M University), features a collection of theoretically informed, data-rich papers accessible to readers with no previous contact with formal modeling or game theory. The volume includes a primer introducing the basic ideas of formal modeling and the game theoretic approach, as well as a foreword and an afterword that place the contributors' chapters into a broader intellectual context. The first half of the book deals with the Supreme Court's "horizontal" relationships with Congress and the states. The second half of the book turns to the "vertical" interactions within the judicial hierarchy of the federal court system. Contributors include Kenneth Shepsle, Lawrence Baum, Andrew Martin, James Rogers, Clifford Carrubba, Christopher Zorn, Georg Vanberg, Thomas Hammond, Chris Bonneau, Reginald Sheehan, Charles Cameron, Lewis Kornhauser, Ethan Bueno de Mesquita, Matthew Stephenson, Stefanie Lindquist, and Susan Haire.

After the collapse of communism, some thirty countries scrambled to craft democratic constitutions and many chose "semi-presidentialism" as their model, a form of government that combines a popularly elected head of state with a head of government responsible to a legislature. In **Borrowing Constitutional Designs: Constitutional Law in Weimar Germany and the French Fifth Republic** (Princeton University Press), **Cindy Skach** (Harvard University) questions the hasty adoption of semi-presidentialism by new democracies. Drawing on case studies of Weimar Germany and the French Fifth Republic, **Skach** demonstrates that constitutional choice matters, because under certain conditions, semi-presidentialism structures incentives that make democratic consolidation difficult or that actually contribute to democratic collapse. In the course of her argument, she offers a new theory of constitutional design, integrating insights from law and the social sciences.

**Search and Seizure: Rights and Liberties Under the Law** (ABC-CLIO, America's Freedoms Series, D. Grier Stephenson, ed.) by **Otis H. Stephens, Jr.** (University of Tennessee College of Law) and **Richard A. Glenn** (Millersville University), will be published by January 2006. The Fourth Amendment has long stood as an important bulwark of personal liberties. Yet, in recent years, issues of homeland security, profiling, and surveillance provoked questions about the extent of the Amendment's protection. Are contemporary interpretations of Fourth Amendment guarantees faithful to the historical origins of the Amendment? What is the current status of protection? In response to these questions, **Stephens** and **Glenn** explore the development of the Fourth Amendment from the late 18th century to the present, covering landmark judicial decisions and enduring controversies.

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As part of its Constitutionalism and Democracy series, the University of Virginia Press has published **Justice Curtis in the Civil War Era: At the Crossroads of American Constitutionalism** by **Stuart Streichler** (Fulbright Lecturer, Tohoku University, Japan). As a lawyer and Supreme Court justice, Benjamin R. Curtis addressed practically every major constitutional question of the mid-nineteenth century. Best known for dissenting in the *Dred Scott* case, Curtis represented President Andrew Johnson in the 1868 impeachment trial, wrote the seminal *Cooley* opinion on commerce powers and the first Supreme Court opinion interpreting due process, clashed with Boston abolitionists over the fugitive slave law, and opposed Lincoln's proclamations on martial law and emancipation. In **Justice Curtis**, the first scholarly book about this jurist, **Streichler** fills a gap in judicial biography by using Curtis's life and work to examine the constitutional conflicts and crises of this transformative period.

## Section News & Awards

*The following awards will be presented at the Law & Courts Business Meeting of the 2005 American Political Science Association's annual conference.*

### LIFETIME ACHIEVEMENT AWARD

The **Lifetime Achievement Award** is presented annually to honor a distinguished career of scholarly achievement and service in the field of Law and Courts: **Joel Grossman**.

### C. HERMAN PRITCHETT AWARD

The **C. Herman Pritchett Award** is given annually for the best book on law and courts written by a political scientist and published the previous year: *Distorting The Law: Politics, Media, And The Litigation Crisis* (The University of Chicago Press) by **William Haltom** and **Michael McCann**.

### EDWARD CORWIN AWARD

The **Edward Corwin Award** is given annually for the best dissertation on law and courts completed by a political science graduate student the previous year.: **Lori Ann Johnson**, *Who Governs the Guardians? The Politics of Policymaking for Federal Courts* (completed at the University of California Berkeley) and **Martin J. Sweet**, *Supreme Policymaking: Coping with the Supreme Court Affirmative Action Policies* (completed at the University of Wisconsin – Madison).

### AMERICAN JUDICATURE SOCIETY

The **American Judicature Society Award** is given annually for the best paper on law and courts presented at the previous year's meetings of the American, Midwest, Northeastern, Southern, Southwest, or Western Political Science Associations: "A Spatial Model of Supreme Court Voting" by **Kevin T. McGuire**, **Charles E. Smith, Jr.**, and **Gregory Caldeira**. *Honorable Mention*: "The Effect of War on the Supreme Court" by *Lee Epstein, Daniel E. Ho, Gary King, and Jeffrey A. Segal*.

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### THE CQ PRESS AWARD

The **CQ Press Award** is presented to the best graduate student paper on law and courts: **David Glick**, Princeton University, “Strategic Retreat and the 1935 Gold Clause Cases: Upholding the New Deal to Challenge the New Deal.”

### WADSWORTH PUBLISHING AWARD

The **Wadsworth Publishing Award** is presented for a book or journal article, ten years or older, that has made a lasting impression on the field of law and courts: **Jeffrey A. Segal** and **Harold Spaeth**. 1993. *The Supreme Court and the Attitudinal Model*. New York: Cambridge University Press.

### THE MCGRAW HILL AWARD

The **McGraw Hill Award** is awarded for the best journal article on law and courts written by a political scientist and published the previous year: **Kevin McGuire** and **James A. Stimson**. 2004. “The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiveness to Public Preferences.” *Journal of Politics* 66(4):1018-1035.

### TEACHING & MENTORING AWARD

The **Teaching and Mentoring Award** recognizes innovation in instruction in law and courts: **Larry Baum**, The Ohio State University.

### Lifetime Achievement Roundtable Honoring: JOEL GROSSMAN

Please join us at the roundtable honoring the work of Joel Grossman, at special time at this year’s APSA convention:

Friday, September 2, 12:00 - 1:45: Marriot, Wilson A

Roundtable participants: **Christine Harrington**, New York University (Chair); **Lawrence Baum**, Ohio State University; **Charles R. Epp**, University of Kansas; **Samuel Krislov**; University of Minnesota-Minneapolis; and **Stephen Daniels**, American Bar Foundation.

### 2005 Decade of Behavior Research Award

**James L. Gibson** was awarded the 2005 Decade of Behavior Research Award at a workshop on Capitol Hill on May 23, 2005. The award, created by a broad consortium of social science organizations, recognizes research that has profoundly influenced the public’s understanding of behavioral and social science principles as well as the use of social and behavioral science knowledge in policy settings. Gibson was honored for his research on processes of democratization, and especially for his studies of reconciliation, political tolerance, and the support for civil liberties in the U.S., the Soviet Union, and South Africa. Gibson’s presentation focused on how citizens in former dictatorships come to embrace the principal institutions and processes of democratic governance, and he suggested some general lessons about how “behavioral democracy” can be established in transitional regimes.



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# Announcements

## Application for Visiting Scholars

The Center for the Study of Law and Society invites applications for visiting scholars for 2006-2007. Since 1961, the Center has fostered empirical research and theoretical analysis concerning legal institutions, legal processes, legal change, and the social consequences of law. Closely linked to Boalt Hall School of Law, the Center creates a multidisciplinary milieu with a faculty of distinguished socio-legal scholars in sociology of law, political science, criminal justice studies, law and economics, legal history, and legal and social philosophy, along with visiting socio-legal scholars from the United States and around the world. Faculty members affiliated with the Center include K.T. Albiston, Robert Cooter, Lauren B. Edelman, Malcolm M. Feeley, Robert A. Kagan, Linda Krieger, Christopher Kutz, David Lieberman, Kristin Luker, Robert MacCoun, Laura Nader, Daniel L. Rubinfeld, Harry N. Scheiber, Jonathan Simon, David Vogel and Frank Zimring.

### Application Requirements

1. Applicants normally must possess a Ph.D. or J.D. (or foreign equivalent).
2. Applicants must submit a full curriculum vitae.
3. Applicants must submit a cover letter specifying the time period they wish to be in residence at the Center and describing their proposed program of research or study. Applicants must pursue a program of research or study which is of mutual interest to faculty members at the Center for the Study of Law and Society.
4. Applicants must indicate the source of funding while visiting Berkeley, e.g. sabbatical pay, scholarship, government funding, personal funds, etc. Unfortunately, the Center cannot offer stipends or other financial assistance. Monthly minimum requirements for foreign exchange scholars are: \$1600 per month for the J-1 scholar, \$500 per month for the J-2 spouse, \$200 per month for each J-2 child.

Among privileges and opportunities of Center visiting scholars are: library privileges at the Law School and all campus libraries; invitations to our weekly bag lunch speaker series and other scholarly exchanges; other campus privileges, including use of athletic facilities; and, when possible, assignment to shared or other office accommodations.

The Center will consider applications for varying time periods, from one month duration to the full academic year. Applicants should submit the information listed above by **November 15, 2005** by e-mail to [csls@uclink.berkeley.edu](mailto:csls@uclink.berkeley.edu) or by mail to: Visiting Scholars Program, Center for the Study of Law and Society, University of California, Berkeley, CA 94720-2150. Inquiries may be made to the Director, Professor Lauren B. Edelman, [ledeman@law.berkeley.edu](mailto:ledeman@law.berkeley.edu) (until August 15, 2005) or to the Acting Director, Professor Malcolm Feeley, [mmf@law.berkeley.edu](mailto:mmf@law.berkeley.edu) (after August 15, 2005); or to the Associate Director, Dr. Rosann Greenspan, [rgreenspan@law.berkeley.edu](mailto:rgreenspan@law.berkeley.edu). For additional information, visit the Centers website at <http://www.law.berkeley.edu/institutes/csls/>

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**Call for Papers:**  
**Globalizing Justice: International & Transnational Law, Courts & Processes**

The Research Committee for Comparative Judicial Studies (IPSA RC#9) is calling for paper and panel proposals for its meeting in Tempe, Arizona at Arizona State University on February 16-17, 2006.

The theme of this meeting is “Globalizing Justice: International and Transnational Law, Courts, and Processes.” Papers and panels on a wide variety of topics dealing with international and transnational law and processes, the emerging “global community of courts,” transjudicial communication, the relationship between national and supranational courts, the enforcement of international human rights norms, legal integration through international, supranational, and transnational law, and substantive developments in transnational jurisprudence are most welcome. Proposals for roundtable discussions are also welcome.

Paper, panel, and roundtable proposals should be directed to Professor Michael Tolley by email (+) or regular mail (300 Meserve Hall, Northeastern University, Boston, MA 02115 USA).

The deadline for receiving proposals is September 15, 2005.

# Conferences & Events

## **AMERICAN POLITICAL SCIENCE ASSOCIATION**

([http://www.apsanet.org/section\\_222.cfm](http://www.apsanet.org/section_222.cfm))

SEPTEMBER 1-4, 2005 WASHINGTON DC

**LAW & COURTS:** CORNELL W. CLAYTON *WASHINGTON STATE UNIVERSITY* [CORNELL@MAIL.WSU.EDU](mailto:CORNELL@MAIL.WSU.EDU)

**CONST. LAW & JURISPRUDENCE:** SUSAN R. BURGESS *OHIO UNIVERSITY* [BURGESS@OHIOU.EDU](mailto:BURGESS@OHIOU.EDU)

## **PACIFIC NORTHWEST POLITICAL SCIENCE ASSOCIATION**

(<http://www.lclark.edu/~pnwpsa/>)

OCTOBER 13-15, 2005 COUER D'ALENE, ID

**LAW & COURTS:** JIM FOSTER *OSU, CASCADE CAMPUS* [JAMES.FOSTER@OSUCASCADES.EDU](mailto:JAMES.FOSTER@OSUCASCADES.EDU)

**SUPREME COURT ROUNDTABLE:** JIM FOSTER *OSU, CASCADE CAMPUS* [JAMES.FOSTER@OSUCASCADES.EDU](mailto:JAMES.FOSTER@OSUCASCADES.EDU)

## **GEORGIA POLITICAL SCIENCE ASSOCIATION**

(<http://web2.mgc.edu/gpsa>)

NOVEMBER 10-11, 2005 SAVANNAH, GA

**ALL PROPOSALS:** SUDHA RATAN *AUGUSTA STATE UNIVERSITY* [GPSA05@AUG.EDU](mailto:GPSA05@AUG.EDU)

## **SOUTHERN POLITICAL SCIENCE ASSOCIATION**

(<http://www.spsa.net/conference06.htm>)

JANUARY 5-7, 2006 NEW ORLEANS, LA

**JUDICIAL POLITICS & PUBLIC LAW:** STEFANIE LINDQUIST *VANDERBILT UNIVERSITY*

[STEFANIE.A.LINDQUIST@VANDERBILT.EDU](mailto:STEFANIE.A.LINDQUIST@VANDERBILT.EDU)

## **Law & Courts Section Business Meeting and Reception**

Friday, 6:00-7:00: Law and Courts Business Meeting: Marriot, Washington 3

Friday, 7:00-8:30: Law and Courts Reception: Marriot, Eisenhower