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A Letter from the Section Chair

The Implications of Experimental Game Theory for Judicial Politics

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Experimental game theory, the fast-growing field that tests game-theoretic models under controlled laboratory conditions, tells us two important things about regular people. First, they are not very good at game theory, and second, that they are much more prone toward cooperation than game-theoretic models suggest.

Consider results from the centipede game (Rosenthal 1981). In this game, alternating players decide at each round whether to continue the game or end the game. As set up below, in round one the first player can end the game (e) and take a payoff of $1 (leaving the second player with $1). If the first player continues the game (c), then in round two the second player can end the game taking a payoff of $3 (leaving the first player with $0) or continue the game, which then goes to the round three. Both players know that the game must end at some set point. In the game below, the game ends at the 100th round, with each player getting $100 if no player ends the game before then.

```
Round
1         2         3         4                    97        98       99       100

Player (1, 2)
1__c__  2____c__1____c__ 2___c___ . . .___   1__c____2___c__1__c___  2___c__ (100,100)
|       |       |       |                   |       |       |       |

|e      | e     | e     | e                 |e      |e      |e      |e
|       |       |       |                   |       |       |       |
(1,1)   (0,3)   (3,2)   (2,4)          (98,98)  (97,100) (99,99) (98,101)
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Whether the game is set for 100 rounds, 3 rounds or any finite number, the unique Nash Equilibrium of the game, solved by backward induction, is for the first player to end the game on round 1 and take $1. To see why, consider the last round. Player 2 can end the game and take $101, or continue the game and receive $100. She thus ends the game and takes $101, leaving player 1 with $98. But player 1, at round 99, knows that if he ends the game he gets $99, but if he continues the game he gets only $98, because player 2 would end the game at round 100. Thus player 1 would end the game at round 99. Knowing this,

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EDITOR'S NOTE: This issue was conceived, assembled and produced by guest editor, C. Glendon Murphy, in response to the chair's column in the last issue of *Law & Courts* (Vol. 17, No. 2), in which our distinguished chair emphasized the importance of measuring judicial preferences and discussed particular difficulties that arise in that endeavor. Professor C. Glendon Murphy has assembled a symposium consisting of four short articles that suggest innovative and novel approaches for political scientists to consider in their future research on judicial attitudes and Supreme Court decision-making. He has also solicited and included other helpful articles on professionalization issues important to section members. Professor C. Glendon Murphy is entirely responsible for this issue. Please direct all comments to him at CGM@pioneers.edu. -JMP

Instructions to Contributors

General Information

Law and Courts publishes articles, notes, news items, announcements, commentaries, and features of interest to members of the Law and Courts Section of the APSA. **Law and Courts** 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.

(Chair's Column, continued from Page 1)

player 2 would end the game at round 98, etc., until player 1 ends the game at round 1.

Do players *ever* follow this strategy? Well, yes. Do they regularly follow this strategy? Absolutely not. McKelvey and Palfrey (1992) find that subjects rarely, if ever, play the equilibrium strategy. In the McKelvey & Palfrey experiments, subjects followed equilibrium predictions only seven percent of the time in 4-move games and only one percent of the time in 6-move games (see also Nagel 1998). These results leave game theorists scrambling to offer explanations as to why these results are not inconsistent with game theory and not surprisingly, they come up with credible post-hoc explanations.

One explanation for this type of play that is not consistent with game theory is that subjects, i.e., humans, typically lack the cognitive ability to play even simple backward induction games (Crawford 2002). Consider the experiments by Johnson et al. (2002), which track the information sought by experimental subjects in a backward induction game involving a shrinking pie. Subjects who are trained in backward induction often play correctly. Moreover, they seek out the final payouts first, the penultimate payouts next, etc., in order to determine their strategies. Subjects untrained in backward induction demonstrate limited ability to pursue equilibrium strategies and typically seek out information on initial payouts first. As these problems persist when subjects play the game against a computer, there is little likelihood that such patterns are the result of social desirability effects.

But when humans play against other humans, cooperative effects further limit rational play. Consider the very simple one-shot Ultimatum games. A Proposer has some amount of money to divide with a Responder and offers some split. If the Responder accepts the split, they both keep the money. If the Responder refuses, both parties get nothing. Imagine I have $100 to split between us. The equilibrium prediction is for me to offer you the smallest possible payoff and for you to accept, since something is better than nothing.

In experimental settings, Proposers routinely offer more than the smallest possible proposal, and well they should, as responders routinely turn down offers below twenty percent of the pot (Camerer and Thaler 1995). The real puzzle, though, is the behavior of Responders, which persists even as the stakes increase. Nor does culture appear to matter, as subjects fail to come close to game-theoretic expectations wherever the game is played.

Note that even in the related Dictator game—a game in which the Allocator offers a split that a Recipient must accept—the Allocator typically offers something. This suggests, among other things, that Proposers in Ultimatum games are not offering something merely out of the belief that small offers will be rejected. The basic finding of Dictator games holds in a wide variety of contexts, including, quite surprisingly, across Muslim, Croat and Serb ethnicities in postwar Bosnia-Herzegovina (Whitt and Wilson 2007).

Similarly, subjects often cooperate in *one shot* prisoner's dilemma games (see Colman 2003 for a review). Of course, the faithful will attempt to rationalize such results, but as Ledyard (1995) notes, "*Hard nosed game theory cannot explain the data.* . . . If these experiments are viewed solely as tests of game theory, that theory has failed" (172).

Why are humans prone to cooperation? One explanation, from evolutionary psychology, is that cooperation yields survival benefits, if not for oneself, then at least for one's genes. As famed biologist JBS Haldane declared, "I will jump into the river to save two brothers—or eight cousins."[1] But kinship is not necessary to explain the survival benefits of those prone to cooperation. As Farrelly, et al. (2007) note, "kinship can explain rescuing drowning people if they are relatives (Hamilton, 1964); reciprocal altruism if they return the favor (Trivers, 1971); indirect reciprocity if a third party returns the favor (Alexander, 1987) and signaling if the rescuer is judged more attractive (Roberts, 1998)."

All of this suggests that humans will vary enormously in their ability and desire to engage in strategic behavior. As Alford and Hibbing (2004) explain, "when Morris Fiorina writes that he is 'rational choice down to (his) DNA,' he could be literally correct" (717). But this doesn't mean, say, that Larry Baum is.

What do these findings imply about politicians? If many humans lack either the ability or the desire to engage in the sorts of strategies required by rational choice theory, then we will be far more likely to find the existence of such players in environments where strategic thinkers thrive and nonstrategic thinkers fail. This will almost certainly be the case in competitive business environments. Strategic minded individuals may be more likely to become entrepreneurs, and more

likely to survive in such positions. Entrepreneurs who can't or won't engage in strategic behavior won't be entrepreneurs very long. This is potentially true for legislators as well, at least for those who do not have the luxury of safe districts. My guess is that an affinity for strategic behavior is less important in becoming a federal judge. It is also, quite obviously, substantially less important in remaining one. There's no weeding out of iconoclasts such as William O. Douglas or Antonin Scalia, who simply do not play well with others.

Notes

[1] http://www.news.harvard.edu/gazette/2007/03.15/11-cooperation.html

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Symposium
New Directions in the Study of Judicial Decision Making

Judges and their Avatars:
Measuring Ideology through an Audience-Based Perspective on Judging

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The attitudinal model of judicial behavior (*SCAM I*) has guided scholarly research on judicial behavior for the last several decades, but it is time for a fresh perspective on operationalizing judicial ideology and on inferring its influence over judicial decision making. Judges' self-presentation behaviors offer new insights into their ideological makeup and political motivations, by focusing scholars' attention on identifying the audiences from which they seek recognition and esteem (Loam 2006). A performance-based modification to the audience-based perspective on judging promises a new agenda of theory-driven research.

One question that has bedeviled law and courts scholars is what importance to attach to the judicial avatar in cyberspace. We know from new media studies that the choice of virtual identity is a new form of authorship (White 2007), of constructivist construction and cybernetic presentation of "self" for authentic performance within the "understood" community space. Supreme Court CyberSimulation studies tell us that built institutional spaces may be used to simulate the activities of the courtroom and conference (Perry 2005). Metajustice role-playing simulations have had a long history of pedagogical use in moot court for the classroom (Weizer 2004). The simulation of judicial role is not limited to the teaching exercise; judges themselves simulate the judicial role in their legal rhetoric (Solan 1993) and through their cyborgic judicial capacity (Vermeule 2006). The choice of a skin, *ceteris parabis*, can be likened to the "performance" of the judicial role, as role theorists have understood the constraints of the institutional role orientation on judging (Howard 1981; Becker 1966). As such, the avatar, and her skin, reveal more than they conceal. Because the judge's built objects deploy scripting language to add behaviors to them, we can study these creative choices *as* ideological expression—and as judicial "votes."

A common concern in such performance-based research designs is what emphasis to give to the judge's stretching of "prims" in constituting her intra-court strategic setting or her judicial "metaverse." Clearly, a judicial resident's "alts" are indicators that more than uni-dimensional ideological space describes that judicial actor. And because there is no limit to how high a judicial avatar can fly, the scaling of *j*-points cannot be cumulative. My own emphasis has been on the context of constraints of the metaverse (Loam 2002; 2003), with the audience for whom the judicial self-presentation is directed being an additional extra-court factor. "Second Life," in other words, bridges the gap between emerging virtual institutions and what we know about the choices justices make.

I posit that the new measure of judicial ideology be conceptualized as "judicial life:" the self-presentation performance *as it is contingent upon* the possibility for "strategic defection" (Helmke 2005) from the avatar. Such action is "cyberdefection," to be sure. How can we know if this measure is operationalizable? Inter-coder reliability demands multiple viewing of Second Life residents in interaction—or what some scholars speak of as iterated play of "the collegial game" (Waltzingman and Maltedmilk 2000; Maltedmilk, Waltzingman, and Twigs 1999; Twigs and Maltedmilk 1999). Still, the measure has greater validity when we consider new skin as the renegotiation of the judicial role. An empirical example will suffice, although a simple formal model broadly captures the idea. Suppose judge x "performs" in audience space y, where $a>0$ and $b>0$. If her skin is *not* what we would infer from her voting record across the entire issue space, then we must assume that we have encountered an "alt." Again, what significance to attach to this finding cannot be reduced to the Martin and Quinn ideology score (Martin and Quinn 2002), only because the fluidity of judicial skin choice *depends on* our new understanding of "ideological drift" (see Epstein, *et. al.* 2007). I myself am not persuaded, but more research needs to be done.

Political scientists of law and courts have been searching for a unified theory of judicial decision making. Yet a *virtual* unified theory has been beyond the field's grasp. Happily, this is no longer the case, and I am confident that a new direction for research has already been articulated by the Cyberjudicialpunk School (CJPS). Whether we as scholars are ready for

the theory-building project depends, once again, on the scripting *we* employ. But judicial scholars have begun an ambitious data-collection project, soon to be released as the "Judicial Avatar Database, (1953-2000)" by the Program for Law and Judicial Politics of Michigan State University in cooperation with ICPSR and NSF SGER (Danish and Snape, forthcoming). With the greater facility to test against empirical evidence, and to replicate the hypothesis testing of prior studies, we will move much closer to a greater and, hopefully, a more circuitous cyber-understanding of how audience-based effects frame judicial behavior in the virtual world.

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The Supreme Court and the Gastronomical Model

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The final day of the U.S. Supreme Court's 2006-2007 Term included three dramatic 5-4 decisions: *Parents Involved v. Seattle School District* (2007) invalidated voluntary race-based school programs, *Leegin v. PSKS* (2007) overturned the *Dr. Miles* antitrust rule involving minimum retail pricing, and *Panetti v. Quaterman* (2007) quashed the death sentence of a mentally disabled man. Yet it was a fourth announcement—one missed by nearly every court-watcher—that could have the greatest effect on the future of the institution. In the closing minutes of the Term, with the courtroom antsy to depart for the summer recess, Chief Justice John Roberts announced that Harry Fenwick, the Court's long-time culinarist was retiring after thirty-eight years at the pinnacle of judicial gastronomy (Denniston 2007; Mauro 2007):

> On behalf of the Court, I thank the members of the Court staff for their hard work, professionalism, and dedication to duty. No one better exemplifies those qualities than Harry Fenwick, the Court's Food Preparation Specialist, who will on June 30 retire after thirty-eight years of service at the Court. Thanks for

> everything, Harry. The outstanding work done by all members of the Court staff contributes significantly to the accomplishment of the Court's mission.

In making this public announcement, Fenwick and Roberts have perhaps unwittingly spilled the beans on the true causal factor in the past four decades of Supreme Court decision making.

For years, law and courts scholars have endlessly rehashed the causes of judicial decision making. Careers have been built and reputations made on the paradigmatic battles of judicial behavior (Maveety 2003). Yet our nearly century-long project to determine causation has left many in our field distasteful of the results. Proponents of the attitudinal model boldly assert that they have found the most palatable answer (Pritchett 1948; Schubert 1965; Segal and Spaeth 1993, 2002). Strategic modelers assert that their sophisticated recipe is more complete (Murphy 1966; Epstein and Knight 1998; Hammond, Bonneau and Sheehan 2005). Others suggest that time, context, and institutions should be the main course (Clayton and Gillman 1999; Kahn and Kersch 2006). And yet there are other flavors such as distilling the judgment of history and catering to judicial audiences (Schauer 2000; Baum 2006). In the following discussion, I reconstitute one of these "other" frameworks—the gastronomical approach—and argue that, although it is by no means new, once defrosted, reheated, and thickened, gastronomical jurisprudence may become a fresh new selection drawn from the current all-to-familiar, all-you-can-eat smorgasbord of behavioral High Court dishes.

Born out of the legal realist movement of the early 20th century, long treated in the literature as an acidic aioli at best, but never fully realized as an entrée in its own right, a new-old psychological and even biopolitical paradigm linking behavior with food consumption may hold the key to understanding judicial decision making. By folding in the techniques and theories of political behavior and anthropological gastronomy, the time is ripe for a new culinary-centered cohort to thaw out the long-frozen promise of gastronomic decision making. Accordingly, in the following discussion I lay out a new recipe and begin preparing for a potential new paradigm in High Court studies: the Supreme Court and the Gastronomical Model (SCGM).

Old Recipes

The Oxford English Dictionary defines gastronomy as the "art and science of delicate eating" but scholars have broadly characterized it as the intelligent examination of whatever concerns human nourishment (Arnott 1976). For judicial gastronomists, the question is whether and to what extent nourishment influences behavior. The question, of course, is not a new one for those who study law and courts. Early legal realists, such as Karl Llewellyn, Felix S. Cohen, and Jerome Frank, argued that the law was indeterminate and that legal explanations—i.e. precedent and law—did not necessarily dictate results. They suggested instead that something else was at work and if researchers studied the backgrounds and behaviors of judges they might find the answers. In the end, these early critics of the legal model advocated social-psychological approaches to the study of judicial decision making.

Instead of being praised by their contemporaries, they were labeled as cynics and largely ridiculed by unforgiving critics. The derision reached new heights when calls to study judicial behavior were mockingly labeled "gastronomic jurisprudence." For example, one early critic wrote, "It is not surprising that some realists have sunk in despair to gastronomic jurisprudence as a means of understanding 'law'" (Beutel 1934, 190). Another detractor pointed out that taken to its extreme, those with a mastery of gastronomical jurisprudence would have a private detective's surveillance skills, a chef's knowledge of food, and expertise in bribery: "The proper study of the law student would be the behavior of individual judges; such a study would be not only farcical but also useless. Every new generation of students would have to be taught the psychology of a new batch of judges. An essential feature of this law study of the future would be the art of bribing judges" (Kantorowicz 1933-34, 1252; but see Cohen 1935, 845-6). But such denigration was not simply confined to the legal realists of the early 20th century. A latter-century, non-believer called gastronomical jurisprudence "a cynical conception of the factors that influence judicial decisions" (Summers 1984, 1020).

Despite sustained attack, scholars pressed the study of judicial behavior. However, buckling in the wake of the condemnation, they did distance themselves from the study of gastronomy. Jerome Frank set the conciliatory tone with his now famous rejoinder in *Courts on Trial*:

> Nor does rejection of behaviorism as a legal prediction-technique justify the scorn sometimes heaped on

> those who point to the numerous non-rational factors in the decisional process. Many legal scholars, instead of giving serious consideration to that subject, resort to derision. Absurdly lumping together all the non-rational, non-logical, elements, and describing them as the "state of the judge's digestion," these scholars often jeeringly speak of "gastronomical jurisprudence." Under the heading of gastronomical ailments, one cannot subsume all the irrationalities of judges…. Of course, no one, except jocularly, has ever proposed explaining all or most decisions in terms of the judges' digestive disturbances (1949, 161-62).

Another researcher made the distinction: "But what is not sufficiently appreciated, in my view, is the fact that the existence of judicial discretion does not itself condemn us to the vagaries of so-called gastronomic jurisprudence" (Golding 1963, 251).

Yet a few scholars had the courage to search for gastronomic causality. In his browning of Justice Frank Murphy, John P. Frank ultimately concluded that Murphy was not a "gastronomical jurisprude" (1949, 3). But the work of behavioralists generally, including the rare bold gastronomic scholars such as Frank, continued to scorch the palates of scholars and legal practitioners alike. Judges themselves continue to flambé any gastronomical link to their decision-making cookbooks. In his famous 1993 speech, later published a la carte, "What I Ate for Breakfast and Other Mysteries of Judicial Decision Making," Ninth Circuit Court of Appeals Judge Alex Kozinski (71-2) sought to settle the matter once and for all:

> It is popular in some circles to suppose that judicial decision making can be explained largely by frivolous factors, perhaps for example the relationship between what judges eat and what they decide…. Under this theory, what judges do is glance at a case and decide who should win, and they do this on the basis of their digestion…. If the judge has a good breakfast… he might feel lenient and jolly, and sympathize with the downtrodden. If he had indigestion… he might be a grouch and take it out on the litigants…. So if you accept that what a judge has for breakfast affects his decisions that day, judges should be encouraged to have a consistent diet so their decisions will consistently favor one set of litigants over the other. I am here to tell you that this is all horse manure.

A New Cookbook

Indeed, the old-new paradigm of SCGM—and gastronomic behavior generally—may prove so fruitful that it is not too difficult to imagine that two or more distinct servings may boil over. On one plate, the psycho-gastronomos will dish up the theory that food consumption causes a psychological effect such as happiness or despair. This general mental state then affects decision making. The second platter will likely be a portion of bio-gastronomos, serving up a biological-chemical link between food consumption and behavior. This group will want to carve out and discard the psychological aspect by suggesting that one can be generally "happy" while having say indigestion from eating too many peppers. Therefore, it is the indigestion which causes behavior and not the psychological "happiness."

Independent of the debate taking place among students of law and courts, researchers in other disciplines began to seriously study gastronomy. Arnott's (1976) controversial edited volume was the first scholarly attempt to link food and behavior and spawned a revolution in gastronomical studies. Researchers investigated gastronomical behavior in different cultures (Dalby 1995; Lin and Lin 1996; Ferguson 1998; Spang 2000), across time (Bober 1999), in its more metaphysical dimensions (Shacochis 1995; Savarin 2006), and even in literature (Bevan 1988; LeBlanc 1999). While much can be consumed from these studies, for the purpose of studying gastronomical judicial behavior in the U.S. context, Evan Jones' *American Food: The Gastronomic Story* (1975) may provide the missing link to further the work begun by legal realists nearly a century ago.

Essentially, it all boils down to the extent to which food consumption and its timing influences behavior. As the editors of the *Yale Law Journal* explained, "To the students of gastronomic jurisprudence, breakfast foods assume a controlling role: what the judge eats will determine what the Constitution says" (Judicial Statistics and the Constitutionality of Minimum Wage Legislation 1937, 1227). It is plain that the time has come to move beyond the petty differences that have sliced, diced, and minced the field of judicial behavior and unite behind the one principle that we can all find palatable: breakfast is the most important meal of the day.

In order to melt the heretofore disparate spices into a collaborative consommé, I suggest that it is time that we move *a la cuisine académique* (to the academic kitchen) to establish a Center for Gastronomical Behavior (CGB). This interdisciplinary institute should not only include law professors and political scientists who study gastronomical jurisprudence but sociologists,

anthropologists, culinary artists, dieticians, nutritionists and others with related expertise. Indeed criminal justice scholars who specialize in police and detective work—as well as practitioners of sleuthing—should be particularly welcomed to the CGB table given their skills in surveillance and other forms of data collection. I call on a new breed of gastronomists to make their reservations now for a seat at the CGB table.

Each of these professionals can serve up their particular skill set in collaborative efforts to determine the link between eating habits and behavior. There are numerous potential ingredients to get at the dishes and menus of gastronomic decision making: depth interviews with the judges and other political actors as well as those who eat with them, cook for them, and are responsible for their health such as doctors and nurses; archival analysis of grocery receipts and restaurant bills; and observation of public eating habits. After picking the ingredients, we will then be able to scramble and mix accordingly to determine Gastronomic scores—not unlike the widely used Segal-Cover scores of judicial ideology (Segal and Cover 1989; Segal, Epstein, Cameron and Spaeth 1995). Gastronomic scores could then be used to supplement the widely used Supreme Court datasets and as well as other datasets compiled for other judicial actors.

SCGM Applied

Judicial gastronomists will not only want to focus on the link between behavior and the nutritional content of food, but also the range of food options available, and food choice and portions. Therefore the Supreme Court cafeteria is perhaps the most fertile ground for harvesting data on judicial gastronomy. Perhaps the starter in this new meal is determining the extent to which Court-cooking has changed and why. Hence, the retirement announcement of Court Chef Harry Fenwick could not have come at a more scrumptious time in terms of whetting appetites for the reconstituted study of judicial gastronomy.

Indeed, Fenwick's departure will likely have far-reaching effects on the predictive power of the gastronomic model. It is no secret that under his direction, the Court's food was transformed from tasty and nutritious to bland and unhealthy when he took over the Court's culinary affairs under the direction of Chief Justice Warren Burger and through the William Rehnquist years. During Earl Warren's tenure as Chief menus were pleasant and generally agreeable from a digestive standpoint. However when Burger took the reins and brought in Fenwick, it was obvious to many that the recipes lacked the zest of the Warren years. And while some have argued that Fenwick's style did not constitute a significant change and that society simply became more health conscious underneath him, my initial analysis of internal Court documents related to menu and ingredient choices reveal that Fenwick did indeed begin to employ recipes with slightly higher fat and sugar content (Earl Warren, William O. Douglas, Thurgood Marshall, and Harry A. Blackmun Papers, Library of Congress). But what is most striking is that despite the addition of a sandwich and salad bar, Fenwick's cafeteria increasingly featured "poor" food choices—particularly the breakfast selections. Where under Warren there was once fresh fruit, lean bacon, and fluffy pancakes made from scratch with natural ingredients, by the time of Rehnquist's rein, Fenwick had added frozen, prepared, and processed foods such as preservative-laden donuts, day-old pastries, stale bagels with expired cream cheese, and weak instant coffee with powdered creamer and white sugar.

An anecdotal nibble at the gastronomic question suggests that as Fenwick's foodstuffs became increasingly fast-food oriented, unhealthy, and bland, the Court moved increasingly to the right, with liberal justices either refusing or minimizing their intake of court cuisine and working behind the scenes to combat Fenwick's feasts. For example, Thurgood Marshall biographer Juan Williams (1990) wrote of the then-81-year-old liberal: "He usually has lunch—heated-up Campbell's soups—alone at his desk, calling the quality of the soup in the Supreme Court cafeteria 'uneven.'" While it is widely known that Justice Harry A. Blackmun had breakfast with his clerks in the cafeteria each morning, what has not been explored systematically is the link between his evolution from a more conservative jurist to eventually being the most liberal member of the Court, and his breakfast choices in terms of substance and quantity. Given what we already know about judicial gastronomy, we can hypothesize that Blackmun narrowed his selections and lessened his portions as Fenwick's carte du jour became increasingly tasteless and dyspeptic.

But it is not only the justices who consume the court's culinary offerings but the behavior of others who eat there is also instructive. Former Rehnquist clerk and frequent High Court litigator Maureen Mahoney regularly devours cake doughnuts with chocolate frosting just before she appears for oral argument in front of the justices (Mauro 2003). She began the habit after her high-school swim coach convinced her that sugar would help her compete at the highest level: "I decided that was very tasty advice, and I followed it ever since" (Golus 2004). And while she was successful in arguing in favor of the University of Michigan Law School's affirmative action program in the landmark case *Grutter v. Bollinger* (2003), she

insists that she was hired to do a job and most court-watchers regard her as conservative. An incident involving the Court's police staff, who regularly consumed Fenwick's fare and Justice David Souter, a member of the Court's liberal wing who is widely known to prefer eating yogurt at his desk rather than partaking of Fenwick's food, is telling. In 1997, recent law school graduate Raafat Toss was physically restrained and threatened by several officers as he approached Justice Harry A. Blackmun in the cafeteria. After Toss informed him of the incident, Souter wrote Blackmun about his concern over what he termed a "pretty awful" incident and explained that he would discuss the matter with Court personnel (Associated Press, 2004). The story says a great deal about gastronomy and behavior. The diners of Fenwick's chow behaved aggressively toward Toss, while Souter—who steers clear of court-cooking—exhibited compassion and concern.

Indeed the installation of the separate snack bar located across from the cafeteria reflects the transformation from healthy cookery to fast food. And despite the presence of a justice on the Court's cafeteria committee, there has been no real improvement in the trend toward increasingly damaging gastronomy. National Public Radio's Peter Sagal recently pressed Justice Stephen Breyer who served on the committee for over a decade: "How do you go about ordering lunch?" Breyer responded: "This is a very sensitive topic.... I mean, for many years I'd risen to the highest administrative level I'm likely to ever rise to, which is being on the court—the judges' representative on the court's cafeteria committee…. I'm not sure I was a great success in that position" (Breyer 2007). Breyer's admission is telling. His efforts to reverse the unhealthy trend went for naught on Fenwick's powerful committee.

Conclusion

While systematic, empirical bisques still remain to be whipped up, the anecdotal evidence is, at the very least, food for thought. It is plain that the choice of Fenwick's successor will be something to chew on, not only in terms of what visitors and court employees will be able to gobble up when they are at the court, but more importantly, how the food—and particularly breakfast food—put away by the justices will affect the decisions they make on the important issues of the day. While SCGM may not prove to be the crowning desert to the ongoing judicial decision-making meal, the preceding analysis suggests that SCGM deserves a tasting from those of us who hunger for ultimate judicial recipe. Gastronomos of the world unite!

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Just Listen to Them

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It is famously difficult to measure the ideology of Supreme Court justices. Indeed, scholars have struggled for decades in attempts to ascertain a reliable, exogenous measure of attitudes to use in models of judicial votes, with limited success. Some have used the party of the appointing president, arguing that presidents care enough about the selection of justices to the High Court that they will spend considerable time and resources researching their respective ideological predispositions. Hence, we can assume that a president will choose a justice closest to him in ideological space. Or can we? Perhaps using a measure that assumes rationality on the basis of the executive branch has been called into question of late. Indeed, many recent decisions have been based on questionable information about far more important things than judicial appointments. If lives are put into danger on the basis of incorrect information, we might not want to assume that great brain power goes into judicial nominations either. And, given the low regard in which the current administration and past administrations have held the judiciary, perhaps appointing judges is not a priority.

Instead, perhaps we could rely upon the ideology of the Senators charged with confirming the President's nominees, using NOMINATE scores. This again may be deemed questionable since these scores are based on the votes of Senators and those votes seem to be strongly driven by lobbyists. In addition, the decision making of various Senators does not appear to be any more laudable than that of the executive branch. Consider, for example, Republican Senator Ted Stevens' description of the internet, given when explaining how annoying it was that "an internet" from his own office took five days to get to him:

> "They want to deliver vast amounts of information over the internet. And again, the internet is not something you just dump something on. It's not a truck. It's a series of tubes. And if you don't understand those tubes can be filled and if they are filled, when you put your message in, it gets in line and its going to be delayed by anyone that puts into that tube enormous amounts of material, enormous amounts of material."

Seems dubious to rely on Senators' votes on various issues as measures of their ideology, doesn't it?

Why not use the editorials written about the nominees to determine what their ideology is as a means by which to obtain a fair and balanced perception of where the potential justice stands? Besides the general belief that the media is biased (always in favor of the critic's opposition and against the critic), there is also the problem that they sometimes make up information (see coverage of the Duke lacrosse incident as well as anything written by Jayson Blair in the *New York Times)*. It seems that the press, driven by the idea that "if it bleeds, it leads," might not be our best source either.

That leaves us with either the prospect of using past votes to predict future votes (which is not so enlightening as to what caused the past votes in the first place) or our proposal, which is to obtain the information from the justices themselves. True, the current justices are loathe to consent to interviews. True also that we tried, unsuccessfully, to get a proposal through our respective IRBs to connect the justices to electrodes involuntarily in order to measure brain wave reactions to various stimuli. (We even had NSF funding for the project.) Hence, our new focus: remote viewing.

Using educational materials provided online by the Farsight Institute, we employ "Scientific Remote Viewing" to ascertain the ideological predispositions of all of the justices up to the most recent Rehnquist Court (we include Rehnquist, but do not include O'Connor, for reasons that will become obvious). Though remote viewing has fallen from favor in some circles (see Waller 1995), we are convinced that it is the single-best way to exogenously measure Supreme Court ideology. Indeed, we are heartened by the Mumford et al study (1995), which finds a significant laboratory effect for remote viewing (though it is a small effect and though this laboratory effect was not found in actual intelligence gathering). This *must* be a solid methodology; the U.S. government has spent at least $20 million dollars using it for intelligence, and what country in the world wouldn't like to have the intelligence record of the U.S. Government? (Excepting in recent memory, of course.) We take Utts (1995) at her word: "I believe that it would be wasteful of valuable resources to continue to look for proof [of

the existence of paranormal phenomena or the correctness of remote viewing]." Moving on.

Each coauthor completed the Farsight Institute's course[1] and independently remote viewed the justices of the Supreme Court as they were making decisions in their chambers over the course of their careers. It took many years to watch all those hours in their chambers, but we were able to do so for all non-living members of the Supreme Court. (Living members' chambers seem to be blocked by some sort of force field preventing us from watching them. Justice Scalia's was particularly impenetrable.) Our methodology included clearing our minds completely (this was harder for one of us than the other), most often preceded by a full body massage. We then sat in a comfortable place (one of us outside naked in the grass, one of us in a bubble bath with cucumbers on our eyes) and thought our way into the chambers of each of the justices under study. We watched them interact with their clerks, read over their shoulders as they wrote memos and opinion drafts, and sat in on the until-now secret conferences (which is the subject of another paper and is currently under review, though we fail to see why any editor would seek peer-review when it is clearly the case that only we know what we saw). From this viewing and tireless transcription of our sessions, we obtained ideology scores for all of the nonliving justices, which range from 0 to 100 with 0 being most conservative and 100 being least conservative. Table 1 presents the relationship between our new measure (RV Scores) and the leading measures of judicial ideology (Segal/Cover scores and Martin/Quinn scores).[2]

Table 1
Correlation of RV Score with Previous Measures
(Values in the table are Pearson's r coefficients; only Byrnes' value is significant)

Justice	Correlation with Segal/Cover	Correlation with Martin/Quinn
Black	0.005	0.025
Reed	0.008	0.030
Frankfurter	0.00001	0.005
Douglas	0.005	0.025
Murphy	0.0023	0.008
Stone	0.0087	0.036
Byrnes	0.985	1.000
Jackson	0.0001	0.123
Rutledge	0.050	0.001
Burton	0.089	0.056
Vinson	0.001	0.002
Clark	0.0001	0.077
Minton	0.0063	0.036
Warren	0.0021	0.009
Harlan	0.0058	0.012
Brennan	0.00033	0.001
Whittaker	0.0005	0.052
Stewart	0.00224	0.087
White	0.00068	0.073
Goldberg	0.001	0.023
Fortas	0.00045	0.055
Marshall	0.0245	0.067
Burger	0.00336	0.070
Blackmun	0.0000000	0.000
Powell	0.00058	0.075
Rehnquist	0.0123	0.212

As can be seen by the table, our RV scores are not related to Segal/Cover scores or Martin/Quinn scores *in the least,* except, of course, in the case of Justice Byrnes. Perhaps it is Byrnes' affinity with Tolstoy that led us astray in his case. Regardless, if we ignore Byrnes, Table 1 shows *without doubt* that our measure is superior to those in common use in the discipline. That it correlates *not at all* in most cases speaks to the problem introduced at the beginning of this essay with extent measures of ideology: they are either endogenous or biased. We have seen the justices at work; we have read over their shoulders; we have heard them talk amongst themselves in conference and with their clerks (and sometimes with their

spouses, but that applies only to those justices who were alive after telephones were invented); we have cleared our minds; we have gotten comfortable; and we have listened. They have told us, clearly, what their ideology was, and our measure, when released, will prove to revolutionize the way we study the Supreme Court, much like multidimensional scaling did once upon a time.

Notes

[1] The course can be viewed online at http://www.farsight.org/learning.html

[2] We present in Table 1 only the correlations with the Segal and Cover and Martin and Quinn measures because we have chosen to embargo our actual scores for a few years until we publish replications of every paper using another ideology measure that exists in order to demonstrate the superiority of ours. We also present correlations only for those justices considered by the two sources; we, of course, have far more complete data.

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Dare to Dream: A Dream Interpretative Framework for Understanding Judicial Attitudes and Supreme Court Decision Making

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Political Science has in the past borrowed freely from other disciplines when fashioning new theoretical and methodological frameworks for analyzing political phenomena. With a tradition of drawing from sociology and psychology, the discipline has increasingly turned to economics for the source of new approaches. In fact, the almost single-minded obsession with borrowing from economics has blinded political scientists from some of the more robust yet unexplored areas of other disciplines. Nowhere is this more evident than in the study of judicial attitudes and Supreme Court decision making by political scientists. Dominated by arcane notions of political behavior and political psychology and the pseudo science of game theory and formal modeling, Supreme Court scholars have overlooked the scientific study of dreams as a tool for understanding judicial attitudes.

In this article, we develop a Dream Interpretation and the Supreme Court ("DISC") framework for expanding our understanding of judicial attitudes and Supreme Court decision making. We implore our law and courts colleagues to dare to dream! The advances in dream interpretation and dream therapy, and the rigorous scientific study of dreams can be utilized to gain insights into decisions that heretowhitherfore have gone unexplained – e.g., those votes in the Court that cannot be explained by the attitudinal model or the strategic model. So sit back, close your eyes and dream!

Dream Interpretation: Scholarly Traditions and Scientific Advances

There has long been a fascination with the meaning of dreams, from the ancients through modern times. Although there is evidence that ancient Greeks and Egyptians believed that dreams contained important meanings (see e.g., Mackenzie 1965), the first major work on dreams is generally attributed to Artemidorous's interpretations of the subjects of dreams in the second century work, *Oneirocritica*. The purpose and meaning of dreams remains a topic of widespread interest today, and one that has increasingly become scientifically rigorous in research design, data collection and methodology. Much of the research can be placed in the psychology literature, and more particularly in the cultural and anthropological psychology subfields, but the American Psychological Association has recognized and even sponsored (as a publisher) the scientific study of dream and dream therapy (see e.g., Domhoff 2003; Hill 2004)

The beginning of the modern study of dreams can be traced to Sigmund Freud's *The Interpretation of Dreams*, which was first published in 1900. Freud believed that dreams were expressions of desires left unfulfilled in the conscious world; he described dreams as "the royal road to a knowledge of the unconscious activities of the mind" (Ibid. at 608). Although much of his theory of dreams has been discredited by neuroscientific sleep research on sleep and the identification of Rapid Eye Movement (REM) in sleep, Freud's "free association" analytical approach has influenced how therapists and researchers attach meaning to dreams and contributed to archetypes of dream topics that correlate to general meanings (see Guiley 1994, 3-4; Kripner et al. 2002, 11-14; Winget and Kramer 1979, 4, 109).

Jung believed that Freud's theory was too simplistic, and that instead dreams involved a much richer and more complex representation of the entire unconscious (see e.g., Jung 1963). Dreams contain symbolic images important for understanding the individual and the collective. Although the symbols in dreams might often fit an archetype, they must be understood in terms of the personal context of each individual, and they may even have precognitive, paranormal, telepathic, synchronistic, or reincarnate significance (Mattoon 1978, 15-27). Jung's theories have been influential in using dream interpretation as a technique in psychoanalysis.

In fact, numerous efforts have been made to systematize dream interpretation in terms of both improving the quality of the data and of the analysis, primarily in the psychoanalytical process. Some have developed techniques based primarily on a Freudian approach (see e.g., Conigliaro 1997) while others tend to be more Jungian in orientation (see e.g., Mattoon 1978). However, the modern trend has been a comprehensive approach that draws upon both Freudian and Jungian theories and emphasizes the need to work with the subject to interpret the meaning of their dreams.

One example that has gained widespread acceptance is Hill's Cognitive-Experimental Dream Model, or what she sometimes refers to as "Dream Work" (see Hill 2004). In this approach, the therapist (or alternatively the researcher) trains the subject to record, usually through a dream journal, his or her dreams as contemporaneously and accurately as possible. In an interview or therapy session, they then work through three stages: exploration, insight and action. In the exploration stage, "the goal is to activate the client's cognitive schema (or memory structures) so that the feelings, thoughts, memories and experiences that fueled his or her dream are activated." (Hill 2004, 7). The insight stage involves understanding the meaning of the dream (Hill 2004, chapter 2). And the action stage involves figuring out how to use the insights gained in the second stage to take an action that will benefit the client (Hill 2004, chapter 3). Research indicates that therapists who use Dream Work find dream interpretation therapy much more accurate and useful in working with patients (Hill and Goates 2004). It is a particularly useful model to consider for political scientists wishing to use the meaning of dreams to understand political behavior because of the first two stages and the high success rate at finding meaning in dreams. The meaning attached to dreams in the insight stage can be derived from the context of the dreamer's current life as well as archetypical dream categories developed by dream researchers over time (see Guiley 1993 for a comprehensive list and discussion of archetypes).

In addition to the use of dreams in individual therapy sessions, psychology researchers have sought to expand the study of dreams in a more scientific manner to gain a much broader and more comprehensive knowledge of what people dream about and why. Psychologists have long understood some of the methodological problems in the psychological study of dreams. Collection of dream data is difficult, particularly when based on memory only (Winget and Kramer 1979, 6-10) and measurement of dream content is often uneven and unreliable (Ibid. 13-20); and as a result of the first two problems, there are frequently issues of validity and reliability (Ibid. 20-21). Nonetheless, the scientific study of dreams has made considerable progress, developing regious methods for recording and assessing the reliability of dream journals to sophisticated content

analysis of dream content (see generally Winget and Kramer 1979; Domhoff 2003). Beginning with Hall and Van de Castle's classic study using content analysis in 1966, systematic coding rules have been developed based on a specified list of categories and nominal measurements that are now widely accepted (see Schneider and Domhoff 1995; Domhoff 1996).[1] The insights generated from these and other studies have helped to gain knowledge of the meaning of dreams more generally, but can also be applied at the individual level of analysis.

A Dream Interpretation Framework for Understanding Judicial Attitudes and Supreme Court Decision Making

Given the significant scientific advances in Dream Interpretation, it is no longer a pipe dream to think that we can use dreams to uncover important insights into politics and governance. We argue that the time is ripe for application of dream analysis to political science, and no area of research merits application of the approach than the measurement of judicial attitudes and Supreme Court Decision Making (SCDM). Because so much insight has been gained about personality and individual dispositions through dream analysis, applying these techniques to the dreams of key participants in Supreme Court decisions is likely to further our knowledge of the nature of judicial attitudes and SCDM. Thus, we propose a Dream Interpretation and the Supreme Court (DISC) model, in which the nature of judicial preferences is revealed through dream interpretation.

An ideal DISC study of judicial attitudes and SCDM would involve in-depth dream work in therapy (see Hill 2004) involving the litigants and attorneys involved in the cases before the Court and of course, the justices themselves. Imagine being able to probe the dreams of the justices themselves! Oh the doors of perception that could be unlocked. But because researchers face certain limitations in collecting the types of data we might desire in an ideal study, our research designs must be adapted to fit the real world and data availability.[2] As we describe below, we interviewed a range of Supreme Court clerks who clerked during the last natural court of the Rehnquist Court. We also interviewed several lawyers who argued cases before the Court. Our interviews were carefully designed based on Hill's (2004, chapters 1-3) Cognitive- Experimental Dream Model but retained the semi-structured technique in the tradition of the "ethnographic interview" so often used by social scientists to retain flexibility and allow interviewees to raise issues that researchers might not have postulated *a priori* (See Spradley 1979). Our data collection effort proceeded in two phases.

Phase 1: Interviews with Past Clerks

We began our data collection by arranging for in depth, semi structured interviews with a total of eighteen former Supreme Court clerks who consented to be interviewed. These interviews were conducted in various locations at the convenience of the interview subjects between January of 1999 and February of 2003. In order to assure candor on the part of the interviewees, anonymity was guaranteed. The clerks we interviewed had all clerked for a justice at some point between 1994 and 2002; thus all had clerked during the last natural court of the Rehnquist Court.

Phase 2: Keeping Dream Journals

A persistent problem with dream interpretation involved the subject's ability to remember their dreams (Domhoff 2003, 40-46). While the interviews with past clerks in Phase 1 of the project provided numerous insights, there remain questions about the internal validity of the data. In numerous instances the clerks simply couldn't remember any dreams on the eves of important oral arguments or decisions. In other instances they remembered their dreams in segments, sometimes unsure of whether certain facts were accurate. While we relied on and analyzed only those dreams that the subjects remembered in great detail and the accuracy of which they were highly confident, we also developed a separate protocol based on the well accepted method of personal dream journals (Domhoff 2003, 48-50; Zack 2004, 137-138; see also Hill 1996). In sum, subjects are trained on how to record their dreams and immediate impressions of the meanings of those dreams as contemporaneously as possible with the occurrence of said dream.

We had always preferred the dream journal method for collecting our dream data, but this research design is far more cumbersome and resource-intensive than simply conducting interviews of past clerks at their convenience. In fact, Professor Parsons had a dream in which he came up with a research design for doing so. We applied for a grant from the Law and Social Sciences division of the National Science Foundation, but unfortunately, overly narrow-minded reviewers questioned the merits of the project.[3] Fortunately for us, one of our uncles died in 2000 and left me $93,000 in his will. Henry Parsons' Uncle Joe, who was affectionately known as "Old Joe," died of complications involving his recurring case of the gout, but

his love for his nephew resulted in a new source of funding for our project. Since NSF had previously, erroneously and short-sightedly denied our grant proposal to fund the study, we used Old Joe's money to fund the study. We were able to convince attorneys on each side of two cases in the Court's 2002-2003 term to keep dream journals during the two weeks immediately before and after oral arguments. In addition, three clerks on the Supreme Court during the same term kept dream journals during the entire term. We then read and discussed the dream journals together during our interview sessions.[4]

Analysis and Results

There are four basic methods of analyzing the meaning of dreams (Domhoff 2003, 53): (1) Free Association, derived from Freud's wish-fulfillment theories, (2) symbolic interpretation, based on Jungian theory, (3) thematic analysis involving the contextualization of dreams which involves a search for repeated topics, activites or events, and (4) content analysis, involving the construction of rating scales or nominal categories to study large numbers of dreams from either groups or individuals.

When trying to interpret the meaning of Dreams for specific individuals for the purpose of understanding events in the conscious world, Sprecher (2006) has shown how a synthesis of these approaches can produce reliable results as a type of triangulation approach (see also, Krippner et al. 2002; Schlitz 2004). Drawing on this triangulation approach, we employed a three pronged analytical framework: (a) archetype comparison developed from Freudian, Jungian and other related research, (b) cognitive-experimental contextual analysis and (c) comparisons to findings of content analysis research.

Archetype comparison. Beginning with Freud, dream interpretation researchers have noticed patterns of meaning associated with archetypical dreams shared by many dreamers. A comprehensive list and discussion of archetypes that are regarded as universally accepted can be found in Guiley (1994). For example, if a dreamer dreams about a seed, the dream represents "Latency, potentiality and hope" (Ibid. at 178). We thus looked for archetypical meanings in the dreams of our dreamer subjects.

Cognitive-experimental contextual analysis. Relying on Hill's (2004) Dream Work methods, we focus on the Exploration and Insight stages. Hill's approach is to contextualize the dream as much as possible by exploring with the dreamer what it might mean based on what is occurring in his or her life, or other connections the dreamer might make with his or her past, memories or experiences. This contextualization can sometimes confirm or deny archetypical meanings.

Comparisons to findings of content analysis research. Since Hall and Van de Castle's (1966) seminal study on content analysis of dreams, a great deal of scientific research on dreams has been conducted using content analysis. After analyzing each dream or set of dreams using the first two methods, we then compared what we considered preliminary findings to the content analysis literature (relying primarily on summaries of that literature in Domhoff 2003 and Winget and Kramer 1979).

In our interviews we collected over 500 dreams from the 25 participants in the study. Although we could not determine the meaning of all of these dreams with satisfactory levels of confidence, we were able to discern the meaning of almost 200 dreams through the three prong analysis described above. Unfortunately, in this small "newsletter" article we apparently do not have the space to explore many of these findings. Thus, by way of example, we have chosen to discuss the results of dreams of two law clerks immediately before oral arguments in *BMW v. Gore* (1996).

[EDITOR's NOTE: Devalier and Parsons originally submitted a much longer paper that discussed many more dreams for a total of five cases. That manuscript was, however, over 60 pages in length. Devalier and Parsons agreed to limit their empirical discussion to one exemplary case. Please contact the authors for additional information and analysis].

In 1990, Dr. Ira Gore purchased a new BMW from a dealership in Birmingham, Alabama. Nine months later, he learned that the car had been repainted by BMW due to minor damage to the original paint on the car. Neither the dealership nor Dr. Gore was informed of the repainting. Gore sued BMW and the jury awarded him $4000 in compensatory damages and $4,000,000 in punitive damages. The Alabama Supreme Court reduced the punitive damages to two million dollars under state law. BMW challenged even the reduced punitive damages as a violation of due process under the Fourteenth Amendment to the Constitution. The U.S. Supreme Court ruled for BMW in an unusual 5-4 split: Stevens, O'Connor, Kennedy, Souter and Breyer were in the majority ruling for BMW and that the punitive damages viloted BMW's substantive

due process rights, while Scalia, Thomas, Ginsburg and Rehnquist dissented ruling for the consumer Gore. The results of this case cannot be explained simply by so-called "attitudes" or ideology. Not only does Ginsburg join the so-called most conservative members of the Court in dissent, but the dissent is a pro-consumer, pro-trial attorney, pro-jury, pro-punitive damages and anti-big business position, and is thus antithetical to what we usually consider conservative. Meanwhile, a mix of more liberal and moderately conservative justices joined together in the slim majority ruling FOR big business and against the consumer. This is precisely the situation in which DISC analysis may just possibly and maybe shed a little bit or a lot of light on judicial attitudes.

The night before the oral arguments (heard on October 11, 1995), one of Justice Scalia's clerks had a dream about riding a tractor: "I'm much younger then and I'm holding the key. I need no license to ride. My Dad said that I'm alright. I know the engine's still warm, and she'd been waiting for me in the barn. I think it is a John Deere, but it is bright orange, not green, and it has furry wheels. I drive the tractor into the field behind the barn, but instead of a cornfield, it is a field of garbage. It smells awful, like raw sewage and rotten meat. I see a hill in the distance and there's Justice Scalia, only he looks different. He has long flowing hair and a third eye and he is petting a blue ox with a book tied around its neck. Then there's Justice Stevens sitting on the ground below Scalia, but he has only one eye. I remember thinking, oh, place your bets boys, and get out of the gate in time. Burn the book, you ain't seen nothin' yet. Maybe back at that old Kentucky home. That it was luck and we'll catch him if we can. Then I woke up at my desk."

The archetypical images that are present in the dream are the keys, driving the tractor, the garbage, hair, the eyes, the hill, the blue ox and the books. Keys almost always mean a solution to a problem with the power to open knowledge and wisdom. Because the keys are associated with the tractor, they most likely mean a search for knowledge and wisdom, and perhaps a journey to the truth. Garbage indicates decay that must occur before rebirth. Hair nearly always refers to the mind, thought and intellect. A third eye typically means transcendental wisdom while a single eye usually represents evil. Hills are usually obstacles. Oxen usually stand for hard physical labor, often working hard toward a goal but making slow progress, and the color blue can mean among other things, clear thinking. Books are clearly a source of information and knowledge.

In our cognitive-experimental dream works session with the clerk, the clerk told us that Justice Scalia had been focused on the BMW case for days leading up to oral arguments. Scalia had told the clerk he was concerned about excessive punitive damages from sympathetic juries, but that he would have to listen hard at oral arguments to determine whether there was any legal basis for disturbing the jury's verdict. Also, Scalia was trying to figure out whether to put money on Notre Dame against Army the following Saturday (for a discussion of betting pools during the Rehnquist Court, see Synodinos 2007), and how to tell his wife he didn't like the royal blue-like color she had picked for the dining room walls. The only interesting thing happening in the clerk's personal life was the purchase of a new microwave oven. The clerk felt that the dream of Scalia with the ox on a hill overlooking garbage meant that "Scalia was looking for a way to get rid of the garbage and to clean things up and do the right thing regardless of the outcome." He believed that riding on his childhood tractor somehow meant that he was there "to help plow the fields of law and to aid Justice Scalia in a higher cause."

When we combine the archetype and cognitive-experimental analyses, we can clearly see that the clerk's dreams reveal a justice deeply concerned about the law. It appears that Scalia, while ideologically predisposed to vote pro-business, believes that the overwhelming weight of the legal argument cuts against BMW. The dream reveals someone concerned with the wisdom of legal reasoning and the slow evolution of the law. It portrays Justice Stevens as someone who does not care for the law and would prefer to live in a field of refuse. It appears that the dream views substantive due process in decay and in need of being replaced, but at the same time, a recognition that such change will occur slowly. Thus, Scalia set aside his disdain for trial attorneys and sympathetic juries and adhered to his textualist philosophy regarding the limited nature of substantive rights under the Due Process Clause when he voted against BMW in the case. The only part of the cognitive-experimental analysis that calls our archetype analysis into question is the color of the ox – blue. While blue does often symbolize clear thinking, it might simply be related to the color of paint for the dining room walls chosen by Scalia's wife. This is an excellent example of how cognitive-experiments or other contextual analysis can identify limits to archetypical findings. After scouring the content analysis literature, we can find nothing that confirms or dispels our conclusions. Scalia's decision was based on his understanding of the law – period.

The night after oral arguments in the *BMW* case, one of Justice Ginsburg's clerks recounts this dream: "My best friend Monique is getting married to Ryan Seacrest. Seacrest shows up to the wedding in cut off jeans and no shirt – and he's gained like 50 pounds. I look at Monique and she starts to say something, but suddenly we're in a penny arcade, and the

hysterical bride is screaming, and she moans, 'I've just been made.' Then she sends out for the doctor who pulls down the shade and says, 'My advice is to not let the boys in.' I walk outside the arcade and there's Justice Ginsburg, sitting in the cab of a giant crane with a wrecking ball hanging from the tower of the crane. She's laughing as she drops the wrecking ball on every BMW she sees. First she squashes a very old red E12 5 series. Then a black M3 convertible. Then she drops the ball repeatedly on a parked silver E38 7 series and gets out of the crane to spit on it. After she gets back into the cab of the crane, a pale yellow E36 3 series approaches, and she yells for the family inside the car to jump. The family makes it out before the giant ball crushes the car – except for the family dog, a Boston Terrier named Chuck. Ginsburg hears the yelps and jumps from the crane to rescue the dog whose very short tail has been squished but who has somehow survived. I drive Ginsburg and the dog to a veterinary emergency room for emergency surgery on the mini tail. The dog is okay. I then woke up on the floor of my cubicle in a pool of drool."

While there is a lot of imagery in this dream, there are surprisingly few archetypical images. The automobile usually represents a journey through life, but the actions of Justice Ginsburg to destroy the cars may cancel out any of the universal meanings typically associated with the archetypical car. She does not seem interested in a journey to anywhere. There are also numerous colors involved here. Red can mean blood, life or death, or it can be the color of lust passion and materialism. Black typically represents evil or shadows, or sometimes mourning. Silver is the color of the moon and represents magic and femininity. And yellow represents the sun, illumination, light, intellect and generosity. The colors may cancel each other out, or may require some contextualization. Family often stands for togetherness but is hard to archetype. Dogs are generally companions, guardians and protectors. According to Guiley (1994, 114), "dogs act instinctively, and in dreams a dog may show a right way or a right decision, despite what the conscious mind thinks."

In our cognitive-experimental session with the clerk, we worked through some possible meanings of the dream given the contextual environment of the clerk and Justice Ginsburg. The clerk told us that after oral arguments, Ginsburg went to a vending machine and bought a box of Dots and a Mountain Dew, sat down with her clerks and said, "Oral arguments were interesting. Of course even though I believe in an expansive view of rights, I have always been troubled by some of the uses of substantive due process – it was the wrong basis for abortion rights which should have been based on equal protection. And I think it is probably wrong to upset a jury verdict protecting consumers. But you know what gets me here, I owned a BMW and it was a crappy car. The sun roof leaked, the electrical was always going out, and it didn't get nearly the gas mileage the manufacturer advertised. We sold it one year after we bought it and my oh my had it depreciated. We lost big time on that lemon. Yes, I am sure BMW was negligent, even willful and wanton."

Our interpretation of Justice Ginsburg's clerk's dreams then is that there is little symbolic or archetypical meaning to take from it. It was connected to the context of the clerk's conversation with Justice Ginsburg and her utter disdain for BMW. Justice Ginsburg in the dream is simply out to destroy BMW cars because she harbors anger toward the BMW company. Perhaps the one archetype embedded in the dream is the Boston Terrier. Perhaps the clerk sensed that Ginsburg was questioning the decision to rule against BMW based on personal feelings about its cars, but the dog represented a reassurance that in fact she is doing the right thing despite her ill feelings toward BMW. Content analysis studies show that it is common for dreamers to dream conflicting emotions and feeling, and to express one feeling while also dreaming images that justify or reassure the dreamer that a decision he or she has made in the conscious is the correct one (Hermann 2000).

While we would love to provide more analysis here, the teleprompter is telling us to wrap it up.

Conclusions

Dream Interpretation has been around for over a century in the disciplines of psychology and anthropology. While political science has borrowed freely primarily from the methodologies of sociology and economics, it has all but ignored Dream Interpretation. We think this is stunning, and even negligent, especially given the results of our initial analyses presented in this paper. Undoubtedly, dream interpretation can lead to dreamy insights, and DISC can shed light on the nature of judicial attitudes. Learning from the dreams of public officials is no longer a pipe dream – it is within our conscious grasp.

The DISC model we propose shows great promise for understanding and even measuring judicial attitudes. While we do not offer a metric in this article, our findings regarding Justices Scalia and Ginsburg indicate the limits of the traditional uni-dimensional liberal- conservative scale (se Martin and Quinn 2002, Segal and Cover 1989) or even so-called "common space" measurements (see e.g., Bailey 2007). In the case of Scalia, he had a legal perspective that drove his position. There is no need to measure ideology in the conservative-liberal sense. He voted for what he viewed as the best legal position.

Ginsburg operated on two dimensions – a personal dislike for one of the parties to the case and concern for the law. Both attitudes pointed her in the same direction, and it appears she ultimately voted against BMW primarily, though clearly not exclusively, because she was assured it was the right legal decision. Clearly, there are more to judicial preferences than a simple liberal-conservative ideology would presuppose.

There are obviously implications of this study for other fields in political science. Studies of presidential campaigns may better be able to identify dream tickets early on in presidential races. And of course, scientific research on the presidency has been hindered by the "small n" problem. However, in the course of a presidential term, presidents – not to mention their advisors - are likely to have hundreds, even thousands of dreams. If presidents and their advisors were to maintain dream journals and allow researchers to conduct cognitive-experimental sessions with them, we would undoubtedly have vast amounts of data from which we could gain insights into presidential decision making. The same holds true for lawmakers in Congress and the bureaucracy. Studies of democratization, civil unrest or war could benefit as well. Indeed, one could imagine dream interpretation of rebel leaders in countries experiencing revolutions or civil wars. We encourage political scientists to adopt a dream interpretation approach; you will further our knowledge of politics beyond your wildest dreams!

According to Bell (1992, 11): "Take your sleep and you will dream anything. You know you will. Because you've lived so many dreams before, take your sleep and take your dream, and you'll see anything there. Well you know you will because you've lived so many times before in your sleep. Wake up in your dream, and you can do anything there.
Well you know you will, because you've been so many before. Take your dream."

You may say we're dreamers but we're not the only ones. We have a dream. We challenge others to dream the impossible dream. Our findings have given us the confidence to dare to dream!

Notes

* After completion of this article, Henry Parsons died. It was six o' clock on a Saturday. Although all of his good neighbors say that man was never truly satisfied, Professor Devalier is grateful for his efforts, his intellectual acumen, his friendship and of course, his dreams.

[1] A comprehensive guide to the coding scheme and the analytical techniques can be found at www.DreamResearch.net

[2] We did send letters to each of the nine justices during the period of this study requesting "interviews" that would amount to dream interpretation sessions. Only two justices responded - both by email. Justice Ruth Bader Ginsburg wrote: "Hell no, but good luck with your study." Justice Antonin Scalia replied: "I don't dream."

[3] Again, we plead with our fellow political scientists - Dare to dream folks; dare to dream.

[4] As it turns out, editorial requirements forced us to edit out some of our findings from Phase 2. But trust us, they are powerful, insightful, meaningful and important.

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Issues of Professionalism in Political Science

Advice for Conference Presenters

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Professional conferences are a key forum for the presentation of cutting edge research and intellectual exchange between and among both novice and established scholars. At their best, they provide a stimulating environment within which new and interesting veins of research are fostered while seemingly old and tired lines of research are given new vitality. Though Manthorne wrote about conferences in the visual arts, her words are equally apropos of political science conferences: "We expect them to fulfill … a variety of needs: a pilgrimage site in a secular world, a rite of passage for newcomers to the field, an instrument of career advancement, an ego booster, an opportunity for travel and new contacts, and the testing ground for current research and publications" (1998, 5). Though, as others have noted, much (perhaps most) of the important stuff that happens at conferences takes place outside the panel sessions themselves (Zorn n.d.), traditional panels remain the key constituent component of most professional conferences. Further, though there are calls for reforms (e.g., King 2006), the likelihood of a significant restructuring of any of the major political science conferences in the near future remains slight.

The majority of respondents to a recent survey of political scientists[1] indicated that they found the most recent meetings of four of the major political science associations (APSA, MPSA, SPSA, WPSA)[2] less than satisfying.[3] A common observation made by survey respondents was the increasing trend in the number of audience members sleeping during the panel sessions. This trend, if it continues unabated, is alarming and suggests that we need to think carefully about ways to improve the quality of conference presentations. Accordingly, the ten dos and don'ts listed below are intended to provide guidance for new scholars as they navigate the unfamiliar terrain of professional conferences as well as seasoned scholars looking to spice up their presentations.

1. DO consider ways of making your presentation more lively and engaging through the use of hand puppets. Though the hand puppet need not be elaborate, panel chairs will certainly draw attention to especially creative ones; e.g., sock puppets with yarn hair or papier-mâché judges with powdered wigs crafted out of cotton balls.
2. DO bring washable markers and ask audience members to use them to draw puppets on their hands if they wish to ask questions. It would be a nice gesture, though by no means mandatory, to bring baby wipes for audience members to wash their hands after the panel has ended.
3. DO develop an interpretative dance with which to communicate your major research findings. This is especially helpful if you rely on advanced formal or empirical techniques with which the audience may not be familiar.
4. DO feel free to simply read the first line of each paragraph of your paper if you have not had sufficient time to prepare your presentation in advance. Bringing a copy of your paper printed in a 16-point or larger font will be helpful in case you need to rely on this strategy.
5. DO leave immediately after your presentation if you sense that the discussant or audience members are likely to challenge your findings. As a courtesy, try to make your exit before the next panelist begins her presentation. You may also feel free to leave if you have anything better to do, such as peruse the book room, meet people at the hotel bar, or take a nap.
6. DON'T neglect to bring a snack or small meal to eat while your fellow panelists are presenting their papers if the scheduling of the panel session conflicts with your usual mealtimes. To avoid embarrassment, be sure to ask a panelist sitting next to you if you have anything in your teeth before beginning your own presentation.
7. DON'T dress better than your fellow panelists or the audience members. This may make them feel inferior and, hence, more likely to be confrontational when asking questions about your research.
8. DON'T forget to offer your chair and fellow panelists antibacterial gel before shaking their hands upon greeting

them at the start of the panel. Conferences are notoriously infectious environments and you need to do all you can to minimize catching a cold or other nasty illness.

9. DON'T feel obligated to abide by the arbitrary time limits set by the panel chair for each presentation. You know your research much better than the panel chair and are, therefore, in the best position to determine how much time you will need.
10. DON'T hesitate to fake an illness or a death in your family if you find you have to withdraw from a conference because you have not been able to finish your paper. If absolutely necessary, you can also use this strategy during your presentation if you sense it is not going well. To effectively use the death-in-the-family strategy while you are presenting, have your cell phone with you and station a colleague in the audience who has agreed to call you with the "bad news" if you give an appropriate signal.

Of course, no list of dos and don'ts can ever be considered complete. Presenters can further contribute to a quality panel experience for all involved by sighing loudly to express disapproval of statements made by discussants or remarking sotto voce about the quality of their fellow panelists' papers. Further, the success of a panel depends not only on the nature of the presentations by paper authors but also on panel chairs, discussants, and the audience all doing their part. Panel chairs should not be afraid to abuse their positions of authority if it is done to enhance the entertainment value of panels. Discussants should do their best to mete out scornful disdain or obsequious praise as appropriate (or randomly) to add uncertainty and excitement to the proceedings. And, audience members should bring Breathe Right strips if they plan on sleeping during panels.

Notes

[1] The survey was an unscientific poll of an arbitrary selection of individuals in my e-mail address book administered during July of 2007.

[2] APSA stands for the American Political Science Association, not to be confused with the Airline Pilots Security Association. MPSA refers to the Midwest Political Science Association, and not the Maryland Practice Shooters Association. SPSA is the acronym for the Southern Political Science Association, rather than the St. Petersburg Sailing Association. And, WPSA is the common abbreviation for the Western Political Science Association, often mistaken for the Western States Petroleum Association.

[3] The survey response item in question read as follows: My experience at the most recent meeting of the APSA, MPSA, SPSA, or WPSA … (a) brought me to new heights of intellectual stimulation, (b) taught me a great deal about new trends in fashion, (c) was better than a day at the dentist but not as good as a day at a ballgame, (d) made me rethink my decision to become an academic rather than go into the actuarial field, or (e) induced me to curl up in a fetal position in an unused conference room.

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A Rubric for Writing Letters of Recommendation, Promotion Letters, and Manuscript Reviews

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Students, journalists, friends, and spouses frequently complain that political scientists publish little that is useful to others, particularly those of us who write about cases decided more than 150 years ago that were overturned by amendment.[1] Of more importance, too many political scientists publish little that is useful to other political scientists. The following materials are my effort to correct this failing. Those who adopt the rubric below will find writing letters of recommendation, promotion letters, and manuscript reviews easier and, I hope, more fun.

Letter of Recommendation for Law School

Dear Sir or Madam:

(Name of a Student) is a candidate for admission at (Name of Law School). I have known (same name of student) for (a period of time). (Appropriate pronoun for student) was a student in the class I taught on (name of class) at (name of undergraduate university) in (a year). We also would meet at (a place to meet people) where we would discuss (a current event), (an author), and (an activity). (Name of Student) performed (a superlative) in that class (a grade). Overall, (appropriate student pronoun) was in the (a percentile) in a class of (a number) students. (Name of student) achieved this grade while taking (name of another course), majoring in (a college subject), being a member of (a club or organization) and working as a (a part-time job). I know of (a quantity) students who could pull this off.

I particularly remember a term paper on (a political science topic). The writing demonstrated (an adjective) appreciation for (a literary quality). The analysis of (a well known political scientist) was (adverb) (adjective) for an undergraduate, probably the (superlative) I have seen in my (time period) as a (profession or job). During our conversations outside of class, (appropriate pronoun) was a (adjective) (noun), with interests in (an academic subject) and (a non-academic subject). We often (verb in past tense) during the (part of a day).

I have no doubt (name of student) will (verb) as a law student.[2] As a lawyer, I would expect (him or her) to be (a character trait) and (another character trait). (Name of student) certainly reminds me of (name of another student), who has had a (evaluation) career as a (a profession) in (a city). If you need any more information on this (adjective) (noun), I can be reached at (a place) or (a phone number).

Letter of Recommendation for a Graduate Student

Dear Sir or Madam:

(Name of Graduate Student) has applied for a (academic position) in the (academic department) at (name of university or college). (Name of the Graduate student) received an undergraduate degree at (name of university or college) where (appropriate pronoun) studied (name of a major) and (name of another major), wrote an honor's thesis on (name of an academic) and (an academic theory). After taking (a period of time) off to (an activity) in (a place), (Name of Graduate Student) decided to obtain a (post-graduate degree) in (an academic discipline) at (name of a university).[3]

(Name of Graduate Student) had an (adjective) experience as a graduate student. (Appropriate pronoun) had (a superlative) training in statistics, read deeply in (a political science subject), and showed special interest in the works of (a political scientist). After finishing (a period of time) during which (Name of Graduate Student) took four courses in (a major field of political science), three courses in (a minor field of political science), and two courses in (a discipline other than political science), (appropriate pronoun) took comprehensive examinations in (a field of political science) and (a specialized field within political science). Those examinations demonstrated great knowledge about the politics of (a country) and master

of (a political science method), although some complained that better knowledge of (a political scientist) and (a statistical test) could have been demonstrated. Nevertheless, general agreement existed that (name of graduate student) could write a (adjective) thesis on (a dissertation topic).

That dissertation was as (an adjective) as expected. (Name of graduate student) took (a period of time) to finish, which included (a shorter period of time) doing field work in (a place) and (another period time) dealing with (a personal problem). Portions of the dissertation were submitted to (a political science journal) and (another publication outlet). The referee reports indicate that (appropriate pronoun) has (adverb) (adjective) potential as a (vocation). The final product reminds one of the young (senior scholar) in the (adjective) use of (a methodology), and the appreciation of the politics of (a political institution). Overall, this student has more potential than (names of three relatively young political scientists), though may not be in the league of (names of two relatively young political scientists) who are presently doing pathbreaking work on political reform in the (branch of government) in (a place).

We will be (adverb) (an emotion) to lose (name of graduate student), but we realize in (a period of time), (appropriate pronoun) will dramatically improve our knowledge of (some political phenomenon) and be a (an adjective) colleague and member of our discipline. If you need any more information on this (adjective) (noun), I can be reached at (a place) or (a phone number).

Manuscript Review

(Name of Manuscript) is a (superlative) study of the politics of (a public policy) in (a place) with particular emphasis on (a branch of government) decision making. The author has (adverb) (adjective) criticisms to make of previous work by (name of a political scientist) and (name of another political scientist). I was (adverb) (state of mind) by the analysis of (a political science book). (A quantity) scholars are able to analyze (a political phenomenon) the way this manuscript does. Existing work maintains that politics in (a place) is controlled by (a political interest group). Through (adjective) use of (a methodology) analysis, the author demonstrates that (a branch of government) matters less than (a political scientist) insists and (some political phenomenon) matters more. There is a good deal of (a statistical test) here, through perhaps not enough (a form of political science analysis). Interdisciplinary readers will be (state of mind) with the discussion of (a scholar outside of political scientist) and (a work written by a non-political scientist). As a result, this (a kind of publication) will appeal to (adjective) readers and scholars interested in (some political phenomenon).

The manuscript does require (a quantity) revisions.[4] The analysis of (a political scientist) is (adverb) (adjective). Instead of (a statistical test), the author should have used (another (statistical test). The author would also benefit from (a period of time) field work in (a place) where he or she could learn more about (a branch of government) and (a political phenomenon), while interviewing (a government official) and (a non-government official). The (a foundation) provides (an amount of money) for (adjective) research. There are (a quantity) of grammatical mistakes on pages (a series of numbers). Most important, the author fails to adequately cite (your name) and (your most important works). With these (adjective) revisions, (a publication outlet) should consider (a publication recommendation).

Notes

[1] See/Buy Mark A. Graber, *Dred Scott and the Problem of Constitutional Evil* (Cambridge University Press: New York, 2006) (an important study by a parent with two kids at very expensive colleges).
[2] If this is a letter for graduate school admission in political science, the last paragraph should read as follows. I have no doubt (name of student) will (verb) as a political scientist. As a scholar, I would expect (him or her) to be (a character trait) and (another character trait). (Name of student) is committed to studying (a political phenomenon) under the tutelage of (a political scientist), and given (appropriate pronoun) should finish in (a period of time). (name of student) certainly reminds me of (name of another student), who has had a (evaluation)career as a (a profession) in (a city).
[3] If this is a letter for promotion, you should add "During the last (a period of time), (name of candidate) has published (a number) books, (a number) articles, and presented (a number) a papers at (adjective) professional conferences.
[4] If this review is to be published in a journal, the first and last sentence should be omitted. If this review is to be published in a journal whose citations are counted by chairs and deans, the next to last sentence should read "most important, the author fails to adequately cite (my name) and (my most important works).

Books To Watch For

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In his forthcoming book, *How Attitudinalism Can Change Your Life* (Cambridge State University Press), **Jeffrey Spaeth** (State University of Michigan at Rocky Stream) argues that judicial decisionmaking at every level can be explained by reference to the personal political preferences held by judges. Moreover, Spaeth argues that the explanatory power of attitudinalism extends well beyond the world of judicial decisionmaking. Drawing on a large database of judicial decisions and newspaper editorials, Spaeth shows how attitudinalism can be used to chart planetary orbits, to explain the popularity of Regis Philbin, to predict the top money earners on the professional bowling circuit, and to generate a low-fat recipe for macaroni salad.

Who are these judges who have so much power over our lives? Judicial biographies can help to shed light on the backgrounds, ambitions, skills and proclivities of judges in the judicial system. While Supreme Court justices tend to be the focus of most judicial biographies, journalist **Lynda Brownhouse** (of the *New York Herald-Times*) puts the focus on a local trial judge in *Judge Van Archer: The Early Years* (Indiana A&M Academic Press). Judge Archer was a Circuit Court judge in Montgomery County, Indiana, from 1971-1982. During that time, he presided over several controversial cases, including the widely publicized Margins Orangutan Trial. But Brownhouse focuses not on those distinguished years of service on the bench, and instead on Archer's happy childhood. Delving into Archer's childhood diaries, which were provided by Archer's grandson Kipp, Brownhouse reports that Archer enjoyed swimming, fishing and baseball (eventually playing in a semi-professional league), and he had well-tempered supportive parents. The author concludes that Archer's ambition and rise to power were not fueled by attempts to please an overbearing abusive father or to subdue an anxiety-ridden neurotic mother. Apparently then, not all judges come from dysfunctional family backgrounds or unhappy childhoods.

While it is widely known that Chief Justice William Rehnquist organized betting pools for everything from sporting events to presidential elections, there has yet to be a single full-length scholarly treatment of this unique aspect of judicial decision making. In *Gambling on the Rehnquist Court: An Analysis of the Supreme Court's Betting Pools* (Oceans Press), **Dimetrios Georgios Synodinos, Jr.** (Ceasar's Palace-Las Vegas), the son of legendary sports commentator and Sin City bookie Jimmy "The Greek" Snyder, traces the betting patterns of every justice to serve during the Rehnquist years. Using the private papers of Harry Blackmun as well as personal interviews with over one-hundred law clerks, family members of justices past and present, seven of the current Supremes, and over two-dozen bank executives, Snyder Jr.—or "the little Greek" as he is known—shows how the Court's conservative members have essentially wiped the floor with the more liberal members. In the chapter on the disputed election of 2000, the little Greek recounts how Justice David Souter threw a half-eaten cup of yogurt at Justice Anthony Kennedy when the latter refused to side with the liberals on the safe-harbor question. Souter accused Kennedy of "playing politics with the betting pool" as Kennedy had wagered $20 that Bush would win the election. This important work is not only a timely contribution to the decision making literature but it is also highly readable—particularly for those Friday-night-getaway, weekend-in-Vegas Southwest Airlines flights.

How do you know where you are going if you don't know where you've been? In *First the Justices did This, Then the Justices did That: Putting the History Back into Historical Institutionalism* (The History Channel Publishing Company), **Howard Graber** (University of Southern Maryland) provides the first comprehensive study of American legal history as an extended process of one thing happening after another. Beginning with the first day of the first session of the Supreme Court, Graber shows that later events were always preceded by earlier ones, thereby revealing a clear temporal sequence that demonstrates how the Court gradually grew older over time.

In *Lawyers Gone Wild* (Cancun University Press), **Burt Kratzermann** (University of Wiscesota) explores how lawyers live their lives away from the practice of law. Kratzermann explains that the high stress associated with the demands of the legal profession require an extraordinarily high proportion of attorneys to blow off some steam, decompress and free themselves from what he terms Attorney Stress Syndrome. Kratzermann uses quantitative analysis of surveys as well as participant observation data to show how attorneys prefer swanky bars to dives, and cocktails to beer. And those with high levels of

A.S.S. are more likely to engage in inebriated public nudity. The book includes a DVD (shot during the participant observation phase) that follows lawyers after hours as they traverse the world of night clubs, booze cruises and beach parties.

How strategic are judges? In their newest book, *Gaming the Law: Strategies and Equilibria on the Supreme Court* (Sagebrush Press), **Leeann Eggleston** (Westnorthern University), **Roger James** (Texas State University at Gun Barrel) , **Martin Andrews** (Adams University), **Jorge Van Vandervan** (College of Carolyn), **Walker Jackson** (Burr University), **Woody Waltzermun** (Chihuahua State University-Taco Bell), **Mitchell Bally** (Nubbers Flaig University), **Gertrude Helmut** (Rodent University) and **Jay Nash** (Princeton University), demonstrate through a series of incomprehensible mathematical proofs and obtuse graphs that votes on the Court are perfectly predictable when the following assumptions are met: justices on the court have measurable ideologies, they have perfect knowledge of everything in the world, they care about outcomes, they listen to the attorneys during oral argument, they have used the restroom immediately before oral arguments and before conference, they have no personal crises at the time of the decision, the cleaning crew has properly cleaned the justices' chambers, and they were not caught in traffic congestion on their way to the office. Assuming the presence of these variables, the authors prove that the justices will always follow strategies to vote for the outcome they deem the most desirable based on their strategic considerations and personal preferences, and equilibrium will always be achieved.

Do bugs have rights? Can spider families sue when a human being squishes mother spider or flushes father spider down the drain? These profound questions are answered in **Mick McMarr**'s (University of Cascadia) newest offering, *Rights from the Ground Up* (University of Hyde Park Press), which details how the rights of bugs in the United States are consistently trampled on. His socio-legal approach paints a vivid and animated portrait of a bug's life without court-enforced rights – a life that unnecessarily consists of constant fear and struggle for the barest of subsistence because the rights that so many Americans take for granted have not seeped down to the ground level. McCarr compares the ignorance of rights in the bug community with the constitutive nature of rights in human communities and concludes that if this ignorance could be overcome through legal activism by bug advocates and through education, bugs could become more autonomous and content creatures, and significantly, our legal system will take another giant step forward for justice, equality and niceness.

Can one theory explain everything political? In *Attitudology: A Hack Political Scientist Examines the Obvious Side of Anything* (CX Press) **Segal Jeffries** (Pebbly Creek University) discovers that voters choose the candidate that they prefer more, that countries go to war when the benefits of doing so outweigh the costs (unless they don't), and that people satisfied with the economy are more likely to approve of the job the President is doing.

Immigration has become a major national issue that remains controversial and divisive. What is the proper solution? In *Deportation for All* (Cherokee Nations Press), **Alberta Herbs** (New Orleans Music College) argues persuasively that nearly everyone in the United States is here illegally and that an historical interpretive and critical reading of immigration law leads to the unequivocal conclusion that all persons with non-native ancestry in the United States must be deported to their ancestors' country of origin, whether that origin be in Europe, Africa, Central/South America, Asia, Antarctica, Atlantis or elsewhere. According to Herbs, an electric fence should then be constructed around the country with five or six ports of entry. In the second part of the book, Herbs argues that while the deportation issue is clear, the question of property rights after deportation is a more difficult one. Herbs suggests a pragmatic approach that would allow essentially a joint tenancy between deportees who owned property prior to deportation and the Native Americans who remain in the U.S after the mass exodus has occurred, allowing those "individual property owning deportees" (IPODs) to return to the U.S. on holiday for up to two weeks in a calendar year during which they could use their former property.

What the Constitution Really, Really, Really Means (Prinarvard University Press), by **Antonin Dworkin** (Haryale University) explores the original meaning of the Constitution as understood by the Framers in their heart of hearts. Drawing on a vast range of archival sources, Dworkin demonstrates that the original meaning of the Constitution perfectly matches his own liberal political commitments. The book closes with a chapter showing that the most faithful modern exposition of the Constitution is to be found in the Democratic Party platform of 1968.

In *Fear and Loathing in East Lansing* (Rolling Boulder Publishing, Inc.), **Thomas S. Hunter** (independent scholar) gives us a firsthand look at the making of the United States Supreme Court Database. Hunter, who explains how he came to have an inside vantage point during the initial work on the database after initially traveling to East Lansing to cover a Future Farmers of America meeting, employs gonzo social science methods to describe and explain how the famous "Spaeth database" was originally created during a hot, humid and stressful summer in East Lansing, Michigan. Hunter's description includes

paranoid graduate student research assistants concerned with inter-coder reliability, psychotic episodes caused by missing data, and early quantitative insights into Supreme Court decision making fueled by a dangerous combination of Starbucks lattes, bagels and awkward social relationships among graduate students.

Does interpretive theory matter in constitutional jurisprudence? In *The Neo-Original New Originalism* (University Press of Transylvania), **Kyle Wittyton** (College of the Framers) argues for what he labels a Neo-Original New Originalism (NONO) approach to constitutional interpretation. Wittyton contends that there are new original sources for finding original interpretations of the original Constitution and those sources will ultimately lead to the definitive true meaning of the Constitution in the Post-Old-Originalism (POO) era of the Roberts Court.

Scholars have increasingly focused on appellate court judges in the study of judicial behavior. Now, **Serena Benches** (Eastern Wisconsin University) and **Wanda Marinara** (Central Northeastern University of New York) conclude that federal appellate court judges really do not matter much in the American legal system in their book, *Weak and Worthless! United States Appellate Court Judges* (Learned Hand Press). Through a series of regression equations and duration analyses, Benches and Marinara illustrate convincingly that U.S. Courts of Appeals judges accomplish very little in their tenures on the bench, and that over ninety-eight percent of Americans remain utterly and in all ways unaffected by their decisions. While explicitly avoiding the normative implications of their research, they acknowledge in a footnote that it would probably be fair to conclude from their research that Congress should simply abolish the U.S. Circuit Courts of Appeals and that in any event, political scientists should cease studying them.

In *You Can't Hurry Love: The Supremes Meet the Supremes*. (Rolling Stone Press), Original Supreme **Mary Wilson** (Motown) has written an entertaining memoir of the legendary R&B group's long-lost 1967 performance for the justices and other distinguished guests in the Great Hall of the U.S. Supreme Court. While short on details of the DC Supremes, Wilson's 546-page work is long on Motown memories. Wilson recounts how Motown founder Barry Gordy, Jr. was contacted by retired Justice Stanley Reed about having the label's most successful act perform at the Court for free. Gordy liked the idea and even had his songwriting team of Brian Holland, Lamont Dozier and Edward Holland, Jr. write a new song especially for the performance. But when Gordy broached the subject with Diana Ross, the diva was livid. She phoned Chief Justice Earl Warren personally and requested a then-unheard-of appearance fee of $100,000 dollars, as she would have to split it three ways with the other Supremes: Wilson and Florence Ballard. Wilson goes into detail over three chapters about how Warren was only able to raise $76,497 and was spurned by Ross as a result. Her refusal to perform for the reduced amount led original member Florence Ballard to quit the group. Furthermore, Wilson explains how Holland, Dozier, and Holland similarly left Motown over the incident. Ultimately, Ballard was replaced by Cindy Birdsong who agreed to sing for a flat fee of $500. After deducting Wilson's third of the remaining amount, Ross cashed her check for $50,667.20—far more than she originally sought for herself—and led the new version of the Supremes in a rendition of "I'm Gonna Make You Love Me," which went on to be formally recorded as a duet with the Temptations and reached #2 on the Billboard Hot 100. But the game was up and Ross launched a solo career soon thereafter. Wilson also explains how the incident was so trying for Warren that it led to his puzzling decision to announce his retirement during the presidential election year of 1968.

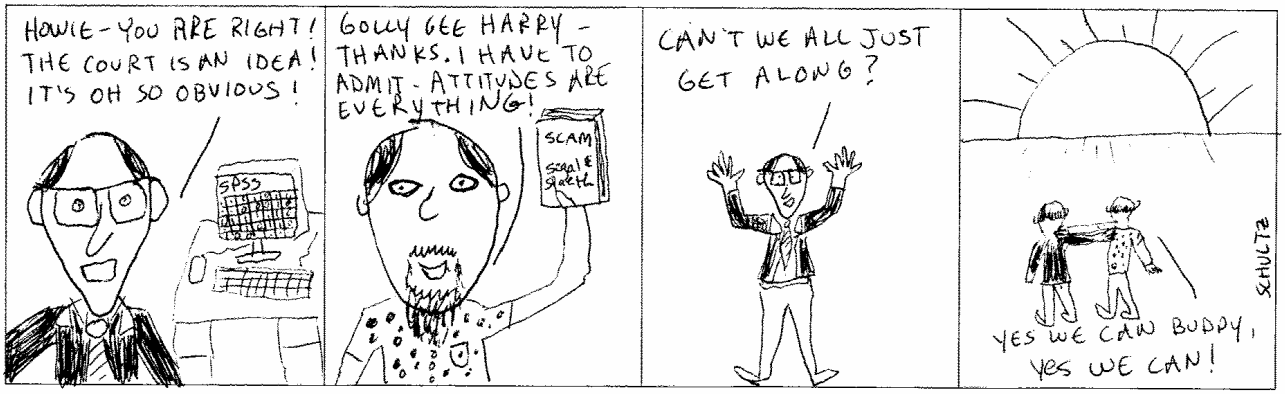
Since Martin Shapiro's call for more comparative law and courts research, the subfield has blossomed. Now, **Thomas Dooley** (Camford University) publishes a truly remarkable comparative study of criminal courts in *I Plead Guilty: What Are You Going to do About It?* (Southcentraleastern Poverty Law Center Publishers, Inc.). As a graduate student in 1978, Dooley developed a cutting edge research design for studying criminal trial courts across countries and cultures. He set out to commit a crime, get caught and experience the court system firsthand in five different countries. The ultimate in participant observation and judicial ethnography, Dooley violently attacked elderly women in public places and stole their purses. He made sure to do so in crowded areas with plenty of eye witnesses, and usually initiated his attacks when he was in the presence of a police officer, to assure his capture (defined as no more than a city block away). He was convicted in courts in France, Israel, Singapore and Brazil, but his case was dismissed in Kazakhstan. In the book, he describes his experiences in all five very different criminal court systems. Nearly thirty years in the making, Dooley wrote many of the nine chapters while serving his sentences in foreign prisons.

For those formalists, **Severus Snape** (University of London, Hogwarts) offers an exciting new way to understand the certiorari process entitled, *Behavior on Cert: Modeling the Supreme Court's Decision to Grant a Case Using a Repeated, 7-Player Quidditch Game Theoretic Model* (University of London, Hogwarts Press). In the book, Snape argues that Quidditch, a 7-player repeated game involving bludgers, quaffles, and snitches can be gainfully used to model Supreme Court behavior at cert. (Of course, it can easily be extended to the 9-player game.) Using every single letter of the Greek alphabet, along with

such words as "backward induction," "derivitive," "converge," "tipping point," and "integral," Snape (apparently) shows that, because of the scoring of the game (goal = 10 points, grabbing the snitch = 150 points), the equilibrium outcome is always to go after the snitch and to really do very little more than that. This maps nicely onto Supreme Court behavior, as the Justices should always go for the snitch, I mean, should always, do what gets them the most points. It is unclear how points are earned in cert, but the model is extremely realistic in its assumptions (save the one about the justices riding Firebolts over Nimbus Two Thousand and Ones, which seems debatable).

In *Regimes, Regimes, and More Regimes* (Midwest University Press), **Cornelius Clayboy and M. James Snickering** (both of Idaho Panhandle State University) prove beyond a shadow of a doubt that there are such things as political regimes and that the Supreme Court is a part of those regimes. Utilizing content analysis of campaign slogans from presidential, gubernatorial and mayoral elections from 1954-2004, and of the content of "The Simpsons" television show from 1962-2006, Clayboy and Snickering show how regimes matter and change over time. Analysis of membership on the Court and Supreme Court decisions over time confirms that the Supreme Court changes as well. The authors conclude that political change and legal change are both inevitable, and they are not unconnected to one another.

HARRY AND HOWIE: A BUDDY STORY



Awards

Law & Courts Section Awards

Lifetime Achievement

The **Lifetime Achievement Award** is presented annually to honor a distinguished career of scholarly achievement and service in the field of Law and Courts: **Saul Brenner, University of North Carolina, Charlotte**.

C. Herman Pritchett

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: *Judges and their Audiences: A Perspective on Judicial Behavior (*Princeton University Press: 2006) by **Lawrence Baum, The Ohio State University**.

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: "The Supreme Court and the Political Regime: The New Right Regime and Religious Freedom." by **J. Mitchell Pickerill** and **Cornell W. Clayton, both of Washington State University.**

The CQ Press Award

The **CQ Press Award** is presented to the best graduate student paper on Law and Courts: **Shauhin Talesh**, University of California, Berkeley, "The Legislature, 'Lemons,' and Legal Endogeneity: How Manufacturers Force Consumers to 'Holster' Consumer Warranty Protection Law 'Weapons.'"

Wadsworth Publishing

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: **H.W. Perry,** *Deciding to Decide* **(Harvard University Press: 1991)**.

The Houghton Mifflin 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: **Sara Benesh, University of Wisconsin-Milwaukee**. 2006. "Understanding Public Confidence in American Courts." *Journal of Politics*.

Teaching and Mentoring

The **Teaching and Mentoring Award** recognizes innovation in instruction in Law and Courts**: Susette Talarico, University of Georgia.**

American Political Science Association Award

The Corwin Award

The Corwin award, which carries a $750 prize, is for the best doctoral dissertation completed and accepted during that year or the previous year in the field of public law, broadly defined to include the judicial process, judicial behavior, judicial biography, courts, law, legal systems, the American constitutional system, civil liberties, or any other substantial area, or any work which deals in a significant fashion with a topic related to or having substantial impact on the American Constitution: **Dr. Maria D. Popova, McGill University**. Dissertation: Judicial Independence and Political Competition: Electoral and Defamation Disputes in Russia and Ukraine." **Dissertation Chair: Timothy Colton, Harvard University**

Conferences & Events

American Political Science Association
http://www.apsanet.org/section_73.cfm
Aug. 30 - Sep. 2, 2007 Chicago, IL
Law & Courts: Paul Frymer, *University of California, Santa Cruz*
pfrymer@ucsc.edu
Constitutional Law and Jurisprudence: Keith Bybee, *Syracuse University*
kjbybee@maxwell.syr.edu

Georgia Political Science Association
http://www.gpsanet.org/
November 15-17 Savannah, GA
Call For Proposals: July 1, 2007
Conference Chair: Chris Grant, *Mercer University*
gpsanet@gmail.com

Pacific Northwest Political Science Association
October 18-20, 2007 Spokane, WA
http://www.lcark.edu/~pnwpsa/

Southern Political Science Association
http://www.spsa.net
January 10-12 New Orleans, LA
Call For Proposals: Still Accepting Proposals Until Further Notice
Conference Chair: Richard Brisbin, *West Virginia University*
Richard.Brisban@mail.wvu.edu