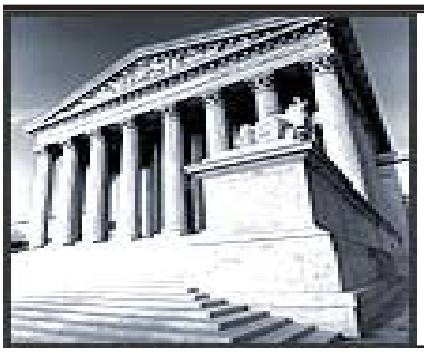

LAW AND COURTS

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

WINTER 2002

VOLUME 13 NO. 1

FROM THE SECTION CHAIR:

Paul Wahlbeck
George Washington University

I am pleased to announce that John Gates (University of California, Davis) has agreed to become the next editor of the Law and Courts newsletter. I am sure that you join me in thanking Cornell Clayton for his service to the section as editor of the newsletter and wishing John well in his term as editor. I also want to thank the newsletter search committee (Melinda Gann Hall, Chuck Epp, Howard Gillman, and Cornell Clayton) for their efforts to find a worthy replacement for Cornell.

The Executive Committee, at its meeting in Boston, voted to give the new editor the charge to plan a transition to electronic publication of the newsletter. We anticipate that the transition to an electronic newsletter will occur as soon as possible. The Executive Committee understands and appreciates that some members would prefer to receive a hardcopy of the newsletter. Elsewhere in this newsletter is a form that you can use to request that we continue mailing the newsletter to you. (See page 20) As plans are laid for the transition, we will keep you informed about the developments.

Lifetime Achievement Award Nominations

You may be aware that we retain past nominations for the Lifetime Achievement Award. One might say, once nominated, always nominated, as nominations for this award are passed each year from the outgoing committee chair to the incoming committee chair. At the recommendation of last year's award committee, the Executive Committee voted to limit the holding of Lifetime Achievement Award nomination files to three years. Of course, one may re-nominate an individual and renew the materials in the nomination file.

New Section Website

The section website, which has been hosted by Washington University in St. Louis, is moving. It will now be hosted by New York University. Effective in mid- to late-December, the new URL will be www.law.nyu.edu/lawandcourts/. Our thanks go to Christine Harrington and the NYU law school for taking up this section resource. We also thank Lee Epstein and Washington University for hosting the website for the past several years.

Who Are We?

As chair of the section, the American Political Science Association sends me a monthly census of section membership. The most recent count, tabulated on November 12, gave

continued on page 3

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 NEW editor:

John Gates, Editor
Law and Courts
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One Shields Avenue
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Articles, Notes, and Commentary

We will be glad to consider brief 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; enclose a diskette containing the contents of the submission; provide a description of the disk's format (for example, DOS, MAC) and of the word processing package used (for example, WORD, Wordperfect). For manuscripts submitted via electronic mail, please use ASCII or Rich Text Format (RTF).

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 posible. Finally, authors should notify *Helena Silverstein* at silversh@mail.lafayette.edu, of publication of manuscripts.

the Law and Court Section 850 members. This is second only to Comparative Politics' 1605 members and leads the third largest section, Political Methodology, with its 799 members. The question that came to my mind when confronted with these numbers is who are we? Most of us would assume that we are a diverse lot, but what does that mean? I asked APSA to provide us with information on this question.1

Like many professional associations, I suspect, our membership is predominantly white males (64.3%). Of the 842 members included in the APSA data, fully 70.9% are men and 89.6% are white. Among the more junior members of the section, though, the gender composition is changing. There are nearly 15% more women among the junior cohort (36.6%) than the senior cohort (21.4%).2 The change in ethnicity is not nearly as large across cohorts (88.4% white v. 92.9% white). These proportions represent less diversity than those reported by our colleagues in law schools.3 According to statistics presented on the web site of American Association of Law Schools, women make up a 32.5% share of the legal academy's personnel. They have made even larger strides, though, in the ranks of assistant and associate professors where women comprise 47.5% of those faculty ranks, which compares to 22.9% of full professors. The law school advantage in ethnic and racial diversity is also striking. Although minority faculty constitutes 13.9% of the legal academy, compared to our 10.4%, this proportion is quite a bit higher among assistant and associate professors (24.9%).4

Increasing the diversity of our section may seem like a daunting challenge as our law school colleagues almost always enjoy a significant resource advantage. There are at least a couple things that we can do as individual faculty and researchers. First, to the extent possible, we should attempt to stoke the interest of women and minority undergraduates in research and graduate school. This means including them at every opportunity in our own research projects. Speaking as a faculty member at a university that does not provide resources for hiring students, this might seem like an impossible dream. Some resources are available, though, to help achieve these goals, including the National Science Foundation's awards for Research Experiences for Undergraduates. Second, we can encourage students to attend the Ralph Bunche Summer Institute. As described by the APSA, "the Ralph Bunche Summer Institute is a five-week, academically intensive summer program designed to stimulate the graduate school experience, provide mentoring, and expand academic opportunities for African American, Latino/a and Native American students."

We are a young section (of course, this is relative, and my estimation of youth changes every year). On average, in 1987, we received our highest degree, which for about 66% of us is a Doctor of Philosophy. While the modal rank is full professor (24.9%), students and assistant professors are the next two largest categories (a combined 33.7%). Fifteen percent of the section membership is in the associate professor rank. The balance of our membership designates themselves as adjunct faculty (or the like), retired faculty, or government and business employees. As a section, the preponderance of young members suggests that we should consider the care and nurturing of these scholars. I would like to think that our section has taken the lead in this issue. In 2000, the section sponsored a short course on professional development for political scientists, which was organized by Rorie Spill and Kevin McGuire. Recently, the American Political Science Association Council created a task force to explore mentoring. This task force will focus its attention on finding ways and programs to best mentor younger political scientists and graduate students. To continue our efforts, I will be naming a committee in the next few weeks to explore avenues that the section can pursue to advance mentoring of our junior colleagues.

Intellectually, we are a diverse group, although with an unsurprising concentration on American Politics and Government. We report our fields of specialization to APSA. It is not surprising that the field most frequently reported by section members is Public Law and Courts; 81% of our membership lists this as their area of expertise. As you know, one is not limited to a single field (certainly, not intellectually, but APSA does not impose such a limit either). The field that has the second most mentions, many also expressing an interest in Public Law, is American Politics and Government with 59.3% of our membership. Table 1 presents the rest of the listings with additional information on cross-listings patterns. Although Law and Society is not offered as a field by APSA, I found about 15% of our membership is also a member of the Law and Society Association.5

Table 1. Law and Court Members' Fields of Specialization

General Fields of Specialization	Number (Percent)	
	Joint with Public Law	As Single Field
Public Law & Courts	583 (81.0)	54 (9.3)
American Government & Politics	427 (59.3)	334 (78.2)
	11 (2.6)	
Political Philosophy & Theory	104 (14.4)	67 (64.4)
	0 (0.0)	
Comparative Politics	96 (13.3)	56 (58.3)
	8 (8.3)	

Public Policy	73 (10.1)
38 (52.1)	1 (1.4)
Public Administration	32 (4.4)
15 (46.9)	2 (6.3)
International Relations	32 (4.4)
11 (34.4)	0 (0.0)
Methodology	21 (2.9)
12 (57.1)	0 (0.0)

The APSA recently conducted a study of membership across sections. In particular, they examined which sections have memberships that cluster together. For instance, Legislative Studies clusters with the Political Organizations and Parties section and the Representation and Electoral Systems section. The Law and Courts section clusters with a set of sections, which, to quote APSA, "are not aligning with other groups, and indeed here does not have an intuitive pattern to it. It includes: Law and Politics [sic], Presidency Research, Political Methodology, and Undergraduate Education." I infer from this that Law and Courts is, to some extent, intellectually isolated within the political science community. Rather than rehashing arguments and observations made before by people who have given this topic a great deal of thought, I will refer you a symposium that was published in the Spring 1996 issue of the Law and Courts Newsletter. The symposium discussed Martin Shapiro's essay in Ada Finifter's *The State of the Discipline, II* (1993, 365-381). Past newsletters are available on the section's website.

If you would like to foster greater interest in areas that are generally underrepresented in the section or encourage greater integration of the study of law and courts with other segments of political science, I would encourage you to submit a short course proposal. Given the substantial number of our membership comprised by students or assistant professors, you might find fertile intellectual ground for your area of interest. After all, given the distribution of interest in our section, not all graduate programs have faculty who are teaching courses in law and society or comparative judicial systems (to name two).6 Short courses can serve the purpose of providing intensive training in areas that members think merit greater scholarly attention.7 If you would like to organize a short course for the 2003 APSA meeting in Philadelphia, please submit a proposal to me by February 1, 2003 (preferably by e-mail at wahlbeck@gwu.edu). Your proposal should contain information on the subject and content of the short course, a discussion of the need for a short course on that topic, potential participants, and the intended audience. Proposals will be reviewed by the section's Executive Committee. Any member of the Law & Courts section may submit a proposal.

Our section has a varied and interesting membership body, and I hope you join me in taking steps to diversify and nurture it further.

Footnotes

1 The APSA provided me with a spreadsheet containing some of the information from each of our membership forms (e.g., name, institution, rank, race/ethnicity, gender, date of degree, and areas of specialization). Some of us, and you know who you are, did not give APSA this information. So, there are missing data on most of these fields. I filled in information on gender, but did not supplement other variables. The total number of observations was 842.

2 This difference is statistically significant ($z=-4.2$, $p<.0001$).

3 The data compiled by the American Association of Law Schools (AALS) for 2000-2001 are available at http://www.aals.org/statistics/T2A.htm.

4 These data are reported by the AALS for 2000-2001 at http://www.aals.org/statistics/T2B.htm.

5 I arrived at this by merging the membership rosters of the section with the Law and Society Association membership directory. The Law and Society Association membership roster was obtained from the LSA website at www.lawandsociety.org.

6 In fact, eleven graduate programs account for almost half of the sections' Law and Society members.

7 In the past few years, for example, short courses have been offered on the topics of Comparative Judicial Systems & Politics and Courts, Law, & New (Historical) Institutionalism.

SYMPOSIUM: EXPANDING RESEARCH OPPORTUNITIES ON THE FEDERAL JUSTICE SYSTEM

A SUMMARY OF THE PANEL DISCUSSION AT THE AMERICAN POLITICAL SCIENCE MEETING, AUGUST 31 2002

INTRODUCTION & BACKGROUND TO THE ROUNDTABLE

JAMES EISENSTEIN, *PENN STATE UNIVERSITY*

A growing number of political scientists, law school professors, and other social scientists have begun to undertake new empirical research on the operation of the Federal Criminal Justice System(FCJS). Informal contacts are being made, and it appears that a critical mass of scholars interested in this topic now exists. Matthew Holden and I have shared an interest in the politics of prosecution and related topics for over thirty years. We thought the time was ripe to organize a Roundtable at the 2002 APSA Annual Meeting to bring together these young scholars to share ideas about the opportunities for research on Federal Criminal Justice, the obstacles one can expect to face, and the techniques and data sources best suited to conducting it. Given the importance of the FCJS system both to politics in general and the legal system in particular, we decided it would be worth summarizing the highlights of the Roundtable for members of the Law and Courts Section.

The Roundtable began with some comments by Matthew Holden providing an overview of how federal criminal justice issues fit into fundamental questions about politics and the functioning of the political system. Next, the former United States Attorney in Massachusetts, Donald Stern, offered some observations based on his experience in that office. Then, five young scholars addressed one of four questions posed prior to the roundtable: 1. What aspects of the FCJS do we know the least about that warrant further research? 2. What changes are now occurring in the FCJS, which will have the greatest impact, and which changes most deserve to be the focus of research. 3. What are the opportunities and difficulties that face those who study the FCJS using existing quantitative data sources? 4. What are the opportunities and difficulties that face those who wish to employ qualitative research techniques to the study of the FCJS? Following each presentation, Daniel Richman, a former Assistant U.S. Attorney and Professor of Law and Donald Stern commented. The Roundtable concluded with a few summary observations of my own.[1]

Footnotes

1 The author invites comments, corrections, criticisms and other responses at Post Office Box 5623, Barracks Road Station, Charlottesville, VA 22905, USA. Telephone: 434-977-6300. Fax: 434-977-6400.

FEDERAL CRIMINAL JUSTICE IN THE CONTEXT OF POLITICAL SCIENCE AND THE POLITICAL SYSTEM: BASIC ISSUES

MATTHEW HOLDEN, JR., *UNIVERSITY OF VIRGINIA*

Lawyers and political scientists operate, to some degree, on the same intellectual terrain. Lawyers have produced a good deal of what I, in a made-up term, call Ajudicio-political theory.[1] The politics of prosecution is the crucial leverage point. Political science should guide people to the realization that in Federal criminal justice and in other arenas, prosecutors en bloc are more powerful than are judges en bloc.

Testing "Interest" as Explanation

Federal criminal justice inquiries oblige us to decide whether we accept or reject the interest group theory of governmental decision-making. David B. Truman wrote that "The power [interest] groups dispose is involved at every point in the institutions of government. . ." This need not be correct. It can be taken as an hypothesis for examination. But if true then logically it is also true that such power enters into the process of prosecutorial decision-making. If it should prove untrue, then some significant restatement of the core of political science is called for.

Incentives for Prosecutorial Decision

The interest theory sensitizes us to what is talked about amongst lawyers and journalists: prosecutors' incentives. These incentives are produced by at least four sets of people: (a) the other lawyers to whom they are related as lawyers; (b) the political party or the sponsoring political group from whom they expect aid and comfort or criticism and injury; (c) the other participants in the criminal justice system, i.e. the judges, the police or investigative personnel, the prison administrators, and so on; and (d) at least some of the time, other groups in the local area that make judgments about how well or ill they are doing. Federal prosecutors also have to take account of their superiors in the hierarchy of the Department of Justice.

Incentives for Prosecutorial Decision in the Sniper Case: "Bureaucratic 'Imperialism'"

Between October 26, 2002 and October 30, 2002, the world watched American television on the technical issue of who would prosecute John Allen Muhammad and John Lee Malvo. The investigation and arrests, doubtless with some strife behind closed doors, appeared a model of civic cooperation. Not so the prosecution decisions. There "bureaucratic imperialism" went on full display in a struggle between the county prosecutors in Montgomery County (Maryland), Fairfax County (Virginia), and the United States Attorney (Maryland). This was capped by the overt intervention of the Attorney General, acting his own appearance in the public media.[2] "Bureaucratic imperialism arises," I have argued before, "from the simple fact that, whatever the purposes of the administrative politician, [the] first necessity is maintain sufficient power for [the] agency."[2]

Role of the Executive and Role of Legislature

The political science of Federal criminal justice also requires lawyers, no less than political scientists, to have a better understanding of the degree to which the executive relationship is "bargaining" or "command."[3]It also requires, if reality is to be understood, a deeper understanding of (a) legislation on criminal justice, (b) intermediation in behalf of constituents, (c) legislative oversight, and (d) actions designed to inflict punishment either upon individuals and groups or upon administrative agencies dealing with criminal justice.

Conclusion

Criminal justice, Federal or otherwise, reveals the opportunity for deeper political science inquiry into "law." I submit four topics integrated in this way as initial points of departure: (a) prosecutorial decision as manifestation of interest politics, (b) incentives for prosecutorial decision, (c) "bureaucratic 'imperialism'" as a special incentive for prosecutorial decisions about the sniper case, and (d) the role of the executive and the role of the legislature as forms of influence over prosecutorial decisions.

Footnotes

1 Matthew Holden, Jr., Continuity & Disruption: Essays in Public Administration, Pittsburgh: University of Pittsburgh Press, 108-109.

2 Eric Lichhtblau, "Tensions Arise Over Who Will Prosecute.and How," New York Times, National, Wednesday, October 30, 2002, A21.

3 Matthew Holden, Jr., "'Imperialism' in Bureaucracy," American Political Science Review 60:4 (December 1966), at 950-951.

REMARKS

DONALD K. STERN, *PARTNER, BINGHAM MCCUTCHEB LLP & LECTURER, HARVARD LAW SCHOOL*

Most criminal justice research, even on the federal level, has little impact on practitioners and policy-makers. This may not be surprising or even disappointing for you to hear, since the primary audience for such research is other academics. I would think, however, that having an actual impact on practitioners should at least be one of your objectives.

One reason for this disconnect is that the data is often flawed. Researchers know this. Practitioners know it as well. It is flawed data in two respects. First, there is little data collected concerning the many important discretionary and "below the radar" decisions – such as how charging decisions are made. The data can also be discounted because practitioners know that it sometimes reflects a narrow slice of a complex process. For example, a federal law enforcement agency may keep statistics on referrals to the U.S. Attorney's Office and use those statistics to justify increased budgets, without regard to the quality of the referrals. A U.S. Attorney might decline to prosecute a number of such cases. In another district, the U.S. Attorney could well discourage in advance any "bad" referrals, so there would be fewer referrals. The number of federal criminal prosecutions in the two districts may be the same, but if you focused on the number of referrals you would get a distorted or confusing picture.

Another problem with much of the criminal justice research, at least from the practitioners' vantage point, is the sense that researchers are often looking for what is wrong – proving that there has been an abuse or misuse of discretion. This is certainly valid research, but it is rarely as helpful to the practitioner as research designed to improve the system or which assists prosecutors in choosing priorities or strategies. These problems, the quality of the data and the focus of research, can be addressed by greater collaboration between prosecutors and researchers. Indeed, research which did nothing more than demonstrate the limitations of existing data would be welcome. And, there are many research projects which could constructively guide federal law enforcement decisions. For example, there is very little data on the actual impact which prosecutions have in the white collar area. What mix of punishment and deterrence (and perhaps other remedies, such as restitution or compliance plans) actually serve to change conduct in corporate board rooms? Another example might be an examination of how incentives serve to achieve or fail to achieve certain objectives. Historically, for example, F.B.I. agents were rewarded (by both recognition and compensation) for the number of informants that they recruited and handled, with less focus on the quality of information provided by those informants or on whether those informants might have committed unauthorized criminal acts. How have incentives operated in these situations?

Still another example is defining what success should mean for criminal justice agencies. We tend to look at crime statistics or victimization surveys, but these numbers often do not tell the full story or account for prevention efforts. This is particularly the case in a post-9/11 era, where federal criminal justice agencies will become increasingly focused on deterring and preventing certain crimes, rather than simply investigating and prosecuting it after it occurs.

Criminal justice research in the federal system can do much to identify the problems and point to improvements. Your work is already important, but it can become essential.

DISCRETIONARY POWERS OF FEDERAL PROSECUTORS

TODD LOCHNER., *BOISE STATE UNIVERSITY*

The American criminal justice system has evolved dramatically over the past twenty-five years, as criminal law has become both increasingly politicized and increasingly "federalized." Scholars studying the federal criminal justice system already have provided great insight into topics such as how increasing caseloads affect courts, how federal criminal law may differentially affect defendants of different races, and how electoral pressures encourage legislators to pass sometimes symbolic, and often times draconian criminal laws.

Further research opportunities are far too numerous to adequately catalog here. The politics of criminal justice—the ways in which interest groups seek to pursue their political goals through the creation or modification of federal criminal law—merits scholarly attention. Similarly, studying how institutional changes in the post-9/11 Department of Justice and FBI affect prosecutorial outcomes may also be a fruitful area for further research. Empirical research into how federal judges exercise discretion, especially in light of the Federal Sentencing Guidelines, commands our attention as well.

So as to not sacrifice depth for breadth, I will focus on one area of inquiry, namely how federal prosecutors exercise their discretion. That is, what factors play on federal prosecutors, as individuals, as they go about exercising their decision making authority? More broadly, how do institutions such as the Department of Justice and United States Attorneys' Offices interact with other institutional actors? These are important topics for two reasons. First, studying federal prosecutors sheds light on how the preferences of individuals and institutions affect the allocation of resources and legal rights. Second, the discretionary decisions of prosecutors affect not only individual defendants, but the quality of justice dispensed by the American legal system on the whole. Within the broader topic of federal prosecutorial discretion, several specific inquiries come to mind:

1. Unlike most state and local prosecutors, federal prosecutors are not subject to electoral monitoring. Lacking direct voter oversight of their discretionary decisions, what inclines prosecutors to take certain types of cases—such as drug cases, immigration cases, or environmental cases—rather than others? Are individual prosecutors motivated predominantly by self-interest or by professional culture? How does the Department of Justice go about trying to ensure that Assistant U.S. Attorneys will prosecute those types of crimes that have been deemed national priorities? Are present institutional arrangements, both at the Department and Office level, adequate to deal with potential strategic behavior by Assistant U.S. Attorneys?

2. Many crimes, such as drug offenses, violate both state and federal law. How do federal prosecutors interact with their state and local counterparts in deciding how to allocate prosecutorial authority? Are there important intradistrict variations between counties? What factors control the decision as to whether to "go stateside" or seek federal indictments—availability of resources, efforts to maximize punishment, interest group or political pressure? Are there consistent trends in how federal prosecutors relate to their state and local counterparts, or is this relationship influenced more by the individual personalities involved? Do patterns of behavior shift when federal prosecutors and state prosecutors are of differing political parties? Are U.S. Attorneys truly the "chief law enforcement officers"1 for their districts, or are policy innovations and leadership initiatives more likely to come from state and local law enforcement agencies?

3. Although federal prosecutors are not purely reactive to the agendas of federal investigative agencies (e.g., the FBI, the DEA) and federal regulatory agencies (e.g., the SEC, the FDA), it is largely accurate to claim that federal prosecutors prosecute what federal agencies investigate.[1] Thus, how do federal prosecutors interact with their agency counterparts, and what implications do these arrangements have for the ability of agencies to pursue their enforcement agendas? To what extent does the discretion exercised by federal prosecutors constrain agency autonomy and authority?

4. Congress over the past twenty years sometimes has adopted a strategy of "targeted funding" in which it provides funding for new federal prosecutors, but insists that they only prosecute particular types of cases such as drug offenses, child pornography offenses, or securities law violations. Similarly, legislators may attempt to use their oversight power to signal preferences as to whether

prosecutors are being overly lenient or overzealous in their prosecution of particular types of crimes. In what ways does Congress seek to influence prosecutorial discretion, and how effective is it in these attempts? Might congressional influence adequately substitute for the lack of direct electoral accountability on federal prosecutors?

Again, these are but a few topics worthy of additional inquiry. Yet to the extent that the discretionary decisions of federal actors such as prosecutors, judges, and probation officers affect the quality of justice our federal system, a better understanding of how these actors exercise their discretion should be at the forefront of the scholarly agenda.

References

1. United States Attorneys' Annual Statistical Report for Fiscal Year 1996, 1 (Executive Office for United States Attorneys, U.S. Department of Justice Publication, 1997).

Footnotes

1 Federal prosecutors also receive referrals from state and local sources, and can empanel their own grand juries. Yet the bulk of cases handled by federal prosecutors were originally referred by federal agencies.

WHAT CHANGES IN THE FCJS WILL HAVE THE GREATEST IMPACT & DESERVE TO BE THE FOCUS OF RESEARCH?

DANIEL KRISLOW, *UNIVERSTIY OF NEW HAMPSHIRE*

As the federal emphasis shifts from the war on drugs to the war on terrorism, we are witnessing extensive proposals for the reorganization of the federal criminal justice system. In essence, federal crime policy is in the process of becoming "globalized", as boundaries between foreign and domestic are far more permeable. The new pressures require efforts to "rationalize" the system. This process began with the drug war, but is now proceeding with increased vigor in order to deal with the threats posed by international terror. This may provide extensive research opportunities for organizational theorists in several areas of policy.

For example, the failures to predict and prevent the September 11 attacks could be the equivalent of the Cuban Missile Crisis for research into the weaknesses and strengths of U.S. policymaking and enforcement for organizational theory within this area. Besides the obvious issues of overlapping and uncoordinated authority, there are also issues of over-centralization within the FBI. These cause information flow bottlenecks that actually interfere with the ability to detect suspicious patterns of behavior, as well as conflicts between goals of the central authorities and the agents in the field. This presents case study opportunities that could describe how existing structures have failed, how restructuring proceeds, and what impacts occur. We are also going to see increasing overlap between defense and law enforcement functions, with new conflicts of authority and increased need for cooperation.

One of the recurring problems studied in organizational theory is the method used to coordinate governmental activity when there is overlapping and competing authority. In addition to studying the formal reorganization of the federal criminal justice and intelligence systems, there are also opportunities for understanding the less formal coordination methods being used in criminal justice. A new model of organization in federal law enforcement that is becoming increasingly more common is the multi-jurisdictional, multi-agency task force involving federal and local prosecutors and law enforcement authorities, with members of the US Attorney's Offices acting as coordinators. This trend started in dealing with organized crime, firearms, and drugs, and is now being used in the antiterrorism area. Understanding how these task forces work may have implications in understanding federalism beyond the area of law enforcement.

Students of federalism may also find the changes in criminal justice present interesting research opportunities. Paradoxically, the internationalization of criminal justice in the area of terrorism may actually serve to cause the increased localization of criminal justice in other areas. For example, the shift of federal investigative resources to antiterrorism activities will obviously necessitate the removal of these resources from the investigation of other areas such as bank robberies and white collar crimes. This may have two different effects; either it will require US Attorney's

Offices to increase their reliance on state and local investigatory agencies,[1] or it will shift these types of prosecutions to state and local prosecutors. Either way, this will have the effect of increasing the importance of the states in these types of investigations, with rich research opportunities for studying the impacts of this shift.

The likely reorganization also presents research opportunities for congressional scholars. There is no doubt that the reorganization of criminal enforcement and intelligence agencies will affect significant political constituencies both within and outside of government. Thus, there will be opportunities to study the influence of interest groups as the proposals for reform work their way through Congress. Also, as the jurisdictional and organizational lines between domestic law enforcement agencies and agencies charged with foreign intelligence become blurred, this is likely to be reflected by changes in the oversight and authorizing power of congressional committees. Case studies and quantitative research into the determinants of committee success and failure as well as the policy implications of these shifts might prove to be a fruitful area of research.

Footnotes

1 I am grateful to James Eisenstein for pointing this out.

AN ECONOMIC APPROACH TO ASSESSING U.S ATTORNEYS' PERFORMANCE

RICHERD T. BOYLAN, *UNIVERSIT OF ALABAMA*

The federal criminal justice system has experienced dramatic changes since James Eisenstein published *Counsel for the United States: An Empirical Analysis of the Office of the U.S. Attorney.*(1978). Yet, Eisenstein's findings are still used to describe U.S. attorneys.[1]

A major change in the U.S. justice system has been the federalization of crime. Such a phenomenon is discussed in detail elsewhere.[2] However, little attention has been given to how the growth of the federal judiciary has made the task of being a U.S. attorney more difficult. For instance, in 1968 a typical U.S. attorney supervised 7.3 assistant U.S. attorneys. In 1998, on average, a U.S. attorney supervised 48.3 assistant U.S. attorneys.

Another major change in the federal justice system has been the change in the salary structure of U.S. attorneys. In 1968, salaries of U.S. attorney varied with the importance of the office, the labor market conditions in the district, and the experience of the individuals. For instance, the U.S. attorney for the district of Alaska received a salary of $18,200 while the U.S. attorney in the eastern district of Pennsylvania was paid $28,000. Since the 1980s, all U.S. attorneys have been paid exactly the same salary and this salary has not kept up with the increases in salaries paid by large private law firms. The effect of the increase in the responsibilities of U.S. attorneys and salary compression are explored in the article "Salaries, turnover, and performance in the Federal Criminal Justice System."[3] The article examined all U.S. attorneys in office in the year 1969 through 1999. I showed that the performance of a U.S. attorney improves with the number of years a U.S. attorney has been in office. Performance was measured as the total number of months that all defendants are sentenced to prison, normalized by the number of assistant U.S. attorneys in a district. The results do not change if one examines other performance measures, such as prison sentences for particular crimes or the amount of collections. In the same paper, it was shown that experienced U.S. attorneys are particularly important in districts with many assistant U.S. attorneys. Finally, it was shown that higher salaries reduce turnover of U.S. attorneys and lead to more experienced U.S. attorneys being in office, while lower salaries increase turnover and lead to more inexperienced U.S. attorney being in office.

The federalization of the criminal justice system has increased the managerial responsibilities of U.S. attorneys. However, the salary structure for U.S. attorneys has not reflected the increase in responsibilities. On the contrary, because of salary compression, the salary for the most important districts is not as competitive as it once was, and this has lead to less experienced U.S. attorneys being in office. In turn, having less experienced U.S. attorneys has lead to a less effective federal criminal justice system.

Footnotes

1 see for instance the 1995 study by the General Accounting Office GAO/GGD-95-150.

2 For instance James Eisenstein, John Kramer and Lisa Miller, "The Federal/State Prosecution Nexus: Preliminary Empirical Findings." Paper delivered at the 2001 Annual Meeting of the American Political Science Association. see also http://pro.harvard.edu/papers/026/026014Eisenstein.pdf.

3 "Salaries, turnover, and performance in the federal criminal justice system," mimeo, University of Alabama.

WHAT ARE THE OPPORTUNITIES & DIFFICULTIES IN USING QUANTITATIVE DATE TO STUDY THE FCJS

ANDREW B. WHITFORS, *UNIVERSIT OF KANSAS*

I recall facing four basic questions as a graduate student struggling with a quantitative dissertation project on the U.S. Attorneys. First, what data are available? Second, how should they be analyzed? Third, how should that analysis be interpreted? Fourth, would anyone care?

It now seems that those four questions are both simpler and more complex than I first thought. First, what data are available? Many data sources are available to investigators seeking quantitative indicators of the federal criminal justice system (FCJS). In my own case, I have found both federal agencies' referrals to the U.S. Attorneys and the U.S. Attorneys' treatment of referrals to be rich data sources for analysis. Other likely targets include the U.S. Sentencing Commission files[1], data from the Bureau of Justice Statistics[2], and data from the Federal Justice Statistics Program of the Urban Institute[3]. A quick review of the National Archive of Criminal Justice Data[4]shows many different glimpses of the FCJS. The current opportunities are to extend political science's view of the federal role beyond that of courts to prosecutors, internal DOJ decision-making, etc. The problem is to find FCJS indicators that are of sufficient interest to political science readers to pry open the gates of journals and presses.

Two quick examples suffice to make the point. In my first paper on the FCJS, I addressed the U.S. Attorneys' enforcement of regulatory laws.[5] The frame of reference, though, is not the FCJS but the role of selection and monitoring in governing widely dispersed agents like the U.S. Attorneys. The second project, in collaboration with Jeff Yates, investigated the U.S. Attorneys' enforcement of drug laws throughout the last two decades.[6] The frame of reference here is the role of presidential policy directives in overcoming problems of distance and coordination.

This indicates the power of the fourth question in a junior faculty member's life. The FCJS is not of primary interest to traditional readers in political science. However, glimmers of hope exist such as in the recent AJPS paper by Sandy Gordon and Greg Huber on public prosecutors.[7] One solution is to write on the FCJS but to not limit the importance of these data to FCJS readers.

A reason for using quantitative FCJS sources is that they are underutilized, involve significant methodological issues, and require careful interpretation. Methodological issues include the estimation of statistical models involving aggregate data. What is the relevant unit of analysis? The federal judicial district? The FBI district? The U.S. Attorney's office? Is the relevant unit the event, the case? If so, should we account for sample selection – that we fail to observe cases that are not administratively recorded? Should we account for the strategic bias inherent in these settings, as Curt Signorino suggests on conflict events in international relations?[8] Is the timing decision as important as the choice to act?

Interpretation is particularly thorny because of the way time and context bind statistical inferences. To a degree, careful quantitative analysis of the FCJS places a premium on being a careful historian, and if not a historian, then a careful qualitative researcher. It is not the case that qualitative research is easier than quantitative. As Judea Pearl shows in his recent book, *Causality*, inference is always difficult, and particularly so if one relies on counterfactual-type reasoning to establish variation in underlying conditions.[9] Instead, quantitative research is more dangerous. The wide availability of machine-readable datasets and "point and click" statistical packages, many of which that include higher-level estimation procedures, mean that researchers have every tool at hand to do as much damage as possible.

Of course, this is the case in all of social inquiry, not just FCJS studies. The long qualitative tradition in political science studies of the FCJS offers an interesting opportunity: to reconcile the broad qualitative understanding of FCJS actors, their incentives, and FCJS outcomes with readily-available quantitative data. In my own case, James Eisenstein's *Counsel for the United States*[10] and even Jim Fesler's *Area and Administration*[11] provided the intuition needed to move forward with quantitative analysis.

In sum, the relevant questions in quantitative analysis of FCJS data are the same questions all political scientists ask with quantitative data. Even the toughest problem we face – the possibility that the most interesting data are never collected because they are too sensitive – is faced by others in political science (for example, see the recent National Science Foundation debate over surveying potential candidates for public office).

Footnotes

1 http://www.ussc.gov/linktojp.htm

2 http://www.ojp.usdoj.gov/bjs/

3 http://fjsrc.urban.org/noframe/about.html

4 http://www.icpsr.umich.edu/NACJD/home.html

5 Whitford, Andrew B. 2002. "Bureaucratic Discretion, Agency Structure, and Democratic Responsiveness: The Case of the United States Attorneys." Journal of Public Administration Research and Theory. 12(1):3-27.

6 Whitford, Andrew B. and Jeff Yates. *Forthcoming*. "Policy Signals and Executive Governance: Presidential Rhetoric in the War on Drugs." Journal of Politics.

7 Gordon, Sanford and Gregory A. Huber. 2002. "Information, Evaluation, and the Electoral Incentives of Criminal Prosecutors." American Journal of Political Science.

8 Signorino, Curtis. 1999. "Strategic Interaction and the Statistical Analysis of International Conflict." American Political Science Review. 93(2):279-98.

9 Pearl, Judea. 2000. Causality. Princeton, NJ: Princeton University Press.

10 Eisenstein, James. 1978. Counsel for the United States. Baltimore: Johns Hopkins University Press.

11 Fesler, James. 1949. Area and Administration. Tuscaloosa: University of Alabama Press.

WHAT ARE THE OPPORTUNITIES & DIFFICULTIES IN USING QUANTITATIVE DATE TO STUDY THE FCJS

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All scholarly research methods present both obstacles and opportunities. Qualitative research has its own unique set of challenges but, when surmountable, can provide researchers with invaluable data that is unobtainable through other means. In this brief note, I will offer a few insights into the benefits and burdens of interview research in the federal criminal justice system (FCJS) from my involvement with a National Science Foundation grant that explores decision-making in the FCJS.[1]

Qualitative research methods are often used in areas where systematic data is incomplete or nonexistent, and where there have been few, if any, prior studies that expose causal ordering and important explanatory variables. In both senses, the FCJS is ideal for qualitative research because we know so little about how it operates and, thus, are ill equipped to ask questions using the quantitative data that do exist. Intensive interviews with key players in the FCJS can provide the foundation from which we can begin to develop the theoretical frames that will support additional empirical work. For example, we know very little about how cases that fall under both state and federal criminal codes end up in one jurisdiction over the other. Through interviews in one federal district, however, we learned a great deal about the interaction between law enforcement and prosecutors that can lead to the shift in cases from state to federal court. In particular, we learned that prosecutors in this jurisdiction have deep concerns about the sentencing practices of local judges ("push-overs," as one prosecutor claimed). This perspective, coupled with a high volume of local gun and drug cases, makes cooperation with the U.S. Attorneys less contentious than it might be in jurisdictions where local prosecutors are pleased with decisions from the bench and there are fewer street crime cases to go around.

In addition, it turns out that the cooperative relations between local assistant district attorneys and assistant U.S. attorneys precedes these programs and facilitated their development (as opposed to the programs facilitating cooperation). In fact, despite the large size of the jurisdiction, the local legal community is small and close-knit, which contributes to the ease with which federal and local prosecutors share cases. It was only through extensive interviews with prosecutors and defense attorneys who had been involved in the legal environment in this jurisdiction for many years that we were able to glean this important context.

Of course, interview research presents particular problems that must be overcome or at least mitigated. Perhaps the most significant obstacle for interview research in the FCJS is that sometimes the information that is of greatest interest to political scientists is precisely the information that is most closely guarded by the gatekeepers of the criminal justice system. That is, we often want information that members of the FCJS are simply unwilling to provide. For example, U.S. attorneys and their assistants will simply not describe for us, beyond broad contours of decision-making, what criteria go into the decision to prosecute. In every jurisdiction, assistant U.S. attorneys have simply refused to provide us with any specific information on this aspect of their work. And yet, considering our interests in political decision-making in criminal justice, this is a crucial variable.

These problems are exacerbated by a general reticence on the part of U.S. Attorneys' Offices to allow researchers to interview their assistants. We have been fortunate to have the support of the Executive Office for U.S. Attorneys and the legitimacy of NSF funding. Even still, there are a few jurisdictions where access has taken some time and been somewhat restricted.

Fortunately, while prosecutors are often unwilling to provide certain details of the court process, defense attorneys rarely exhibit such reluctance. Furthermore, former Assistant U.S. Attorneys and even former U.S. Attorneys are sometimes willing to provide more detail than their incumbent counterparts and locating these individuals in each jurisdiction has been relatively easy. Thus, follow-up interviews with a wide range of other actors in the system can often provide details that are not forthcoming from prosecutors. We have also found that most respondents, including current U.S. Attorneys and their assistants, are generally willing to answer all of our questions without hesitation. Like most people, attorneys seem to appreciate the opportunity to talk about what they do to an interested, yet neutral, third party and this greatly facilitates the research process.

Footnotes

1 James Eisenstein, John Kramer, Jeff Ulmer and Lisa L. Miller. "Uncharted Territory: A Quantitative and Qualitative Analysis of Inter-District Variation in the Federal Court System."

COMMENTS

DANIEL RICHMAN, *VISITING PROFESSOR, COLUMBIA LAW SCHOOL; PROFESSOR, FORDHAM LAW SCHOOL*

Lacking a political science background, I come primarily as a consumer of your work, and offer comments on my reading of (some of) the political science literature.

A full understanding of how the federal enforcement bureaucracy will elude us without a rich understanding of what makes prosecutors (or agents) tick. However, I suspect that the best way to reach that goal is not to start with this ultimate question. After all, to look closer to home, what do professors "maximize" when they grade papers? Progress is much more likely to be made if we follow Jim Eisenstein and focus on, first, identifying the most salient features of the bureaucratic environment, and, second, getting a handle on their relative influences.

Quantitative work can help ensure that anecdote does not substitute for analysis. Its contributions will be limited, however, or even negative, if pursued without considerable sensitivity to the institutions being studied. In an area where data about bureaucratic decision making is hard to obtain, it would be foolhardy, for example, to ignore statistics about declination rates. The challenge lies in interpreting them. As I note in an all-too-impressionistic draft on about agent-prosecutor dynamics:

High declination rates for an agency can suggest a serious disjunction between the agency's agenda and those of the U.S. Attorney's Offices. But they are equally consistent with a managerial strategy of seeking political insulation, using prosecutors to monitor insufficiently supervised field offices, or impressing funders. Or with an agency strategy of regretfully bowing to prosecutorial gatekeeping authority. Or some combination of these, with variation over districts or regions. Put differently, the fact that the FBI had a declination rate of 43% in 1998-99, compared to a DEA rate of 18.3% says something. But from the outside, we can't be sure about what. ("Prosecutors and Their Agents, Agents and Their Prosecutors," draft 2002).

Sharper analytical tools should be brought to bear on declination rates. But if those tools work only by ignoring institutional factors, their explanatory power will be limited.

In a world where agencies like to keep their work secret, and nearly every available statistic is a bureaucratic artifact, information is indeed limited. But not as limited as many scholars think. More attention, for example, needs to be paid to the increasing number of internal or external inquiries that are launched when something goes (or is loudly alleged to have gone) wrong in the federal criminal justice system. In their exploration of the extraordinary, reports by the Justice Department Inspector General, the General Accounting Office, congressional committees, and other government entities frequently shed light on the ordinary.

There needs to be more of an effort to integrate legal and institutional frameworks. Some points do not require deep legal knowledge. One need not, for example, pore over the federal criminal "code" to figure out the most important truth about federal substantive law: It covers just about everything. (A slight overstatement, but one that even Chief Justice Rehnquist would find all too slight.) The law that probably has more of an influence on enforcement choices is procedural law, which does much to set the price of information and may even designate a purchasing agent. The use of grand jury subpoenas as the dominant means of investigating corporate crime, for example, correlates with the greater role that prosecutors play in those investigations.

This is a fascinating time to study the federal enforcement bureaucracy, as so many fundamental institutional features are being reconsidered in the wake of the September 11 attacks. Although the political debate about the Homeland Security department has primarily been about conditions of employment, the Administration's proposal raises important questions about the interaction between institutional structure and agenda. How, for example, will placement within the new department affect the Secret Service's white-collar caseload? How does an agency like the FBI that places a high premium on centralized control of sensitive cases accommodate political pressure to free field offices from bureaucratic handcuffs? These questions are just permutations of age-old bureaucratic issues. But the heightened political interest in them promises both to shake more information free from institutions that generally avoid sustained scrutiny and in increasing the value of (and market for) the work you all do.

CONCLUDING COMMENTS

JAMES EISENSTEIN, *PENN STATE UNICERSITY*

Though hardly surprising, the observations made here reinforces a shared understanding that we all brought to the Roundtable that the Federal Criminal Justice System is both important politically and worthy of further scholarly research.

It also provided ample evidence that there are a variety of ways in which such research can be conducted. Understanding the FCJS system requires employing multiple techniques, including traditional legal scholarship (as found in law journal articles), quantitative analysis, and qualitative analysis. It is especially important that we not apologize for employing qualitative research techniques, especially given the modest amount of research conducted to date.

It also seems clear to me that success in further scholarly research on the FCJS requires the development of a community of scholars to help overcome the obstacles discussed during the roundtable. We need to cultivate a culture of cooperation, not competition.

Some of the things the community should seek to achieve collectively include:

• a division of labor and sharing of information produced by different approaches and research techniques to overcome the shortcomings produced by relying on just one approach. Both qualitative and quantitative research will be facilitated by information produced by the other approach.

• the building of contacts and interaction between law school professors who write about federal criminal justice and the social science research community.

•the application of standards of review of research appropriate to the existing state of knowledge about the FCJS. This is a new field; detailed, insightful description is appropriate and indeed necessary. For the most part, we are not yet ready for rigorous hypothesis testing.

• the facilitation of on-going communication among the FCJS research community, including not just law professors and political scientists, but scholars in Sociology and Crime, Law and Justice. Mechanisms need to be established for sharing information about new books and articles published, newspaper articles describing new developments (for example, Department of Justice policy), important court decisions, and sources of information (including quantitative data sets). One possibility is to develop a broad based list-serv to share such information and to engage in discussion about developments and research opportunities.

• encouraging collaborative research among the growing community of FCJS scholars and developing and submitting collaborate research proposals.

Finally, when researching the FCJS, it is important to recognize that district matters. Both empirical studies and legal analyses which treat Federal Criminal Justice as a unitary system operating in essentially the same way everywhere neglect the extensive variation that exists from district to district and run a high risk of producing inaccurate descriptions.

BOOKS TO WATCH FOR

HELENA SILVERSTEIN
LAFAYETTE COLLEGE

Now available from Congressional Quarterly Press is *The Declaration of Independence: Founding Principles and Current Impact*. Edited by **Scott Douglas Gerber*** (Pettit College of Law, Ohio Northern University), the collection includes articles written by political scientists, law professors, historians, and English professors. Articles in the collection cover such things as the political theory of the document, the drafting of the Declaration of Independence, and the document's use by presidents and Congress. Also featured are articles on the Declaration and Native Americans, Women and the Declaration, and the document's promise of equality for African Americans.

Litigation "horror stories" create the impression that Americans are greedy, quarrelsome, and sue-happy. Countering this impression, *Lawyers, Lawsuits, and Legal Rights: The Battle over Litigation in American Society* (University of California Press) describes a nation not of litigious citizens, but of litigious policieslaws that promote the use of litigation in resolving disputes and implementing public policies. According to author **Thomas F. Burke** (Wellesley College), the diffuse, divided structure of American government, together with the anti-statist ethos of American political culture, creates incentives for political actors to use the courts to address their concerns. Burke focuses on three cases suggesting that litigious policies are deeply rooted in the American constitutional tradition: the effort to block the Americans with Disabilities Act, an attempt to reduce accident litigation by creating a no-fault auto insurance system in California, and the enactment of the Vaccine Injury Compensation Act.

Cambridge University Press recently announced the publication of *Overcoming Intolerance in South Africa: Experiments in Democratic Persuasion*. Authors **James L. Gibson** (Washington University) and **Amanda Gouws** (University Of Stellenbosch) examine the extent to which democratic reform is influenced by the political culture of South Africa and the beliefs, values, and attitudes of ordinary people. Of central importance to the analysis is the value of political tolerance. Gibson and Gouws contend that political tolerance is a crucial element of democratic political cultures in general. And it is perhaps more important than any other democratic value in polyglot South Africa.

NYU Press has released the paperback edition of *First Principles: The Jurisprudence of Clarence Thomas*. Written by **Scott Douglas Gerber*** (Pettit College of Law, Ohio Northern University), the paperback edition includes an Afterword assessing what Justice Thomas has done, and the reaction to what he has done, since his acclimation period ended.

The Selected Writings of Sir Edward Coke will be published by the Liberty Fund in December, 2002. Edited by **Steve Sheppard**, this three volume set offers the first anthology ever created of the writings and speeches of Sir Edward Coke. The volumes include an extensive collection of complete opinions from the Reports, complete sections from the Institutes, records of trials Coke argued or adjudged, selections from the lesser treatises, and his speeches in Parliament, with a modern introduction, chronology, tables, translations, and explanatory notes. Coke (1552-1634) was chief justice of the common law courts under James I, the framer of the Petition of Right of 1628, and one of the greatest authors of the common law. He is thought to have established, among other doctrines, the principles of judicial independence and judicial review. His writings were essential to the development of the colonial and early federal views of the law in the United States.

Forthcoming this winter from the University of Michigan Press is *The Pioneers of Judicial Behavior*, edited by **Nancy Maveety** (Tulane University). This multi-author work examines the scholarly origins and methodological development of three dominant schools in the contemporary study of judicial decision-making: the attitudinal approach, the strategic approach, and the historical-institutionalist approach. Featuring chapters by leading scholars in the law and courts field, the volume examines the contributions of the foundational scholars in the study of judicial politics and traces the intellectual impact of their theories and findings on judicial research today.

Peter Lang has announced the release of *Equal Protection of the Law? Gender and Justice in the United States* by **Mary Atwell** (Radford University). Grounded in women's history, the book explores the ongoing process of taking gender into account in the United States justice system. *Equal Protection of the Law?* is the first volume in a series entitled Studies in Crime and Punishment.

Of Time and Judicial Behavior: United States Supreme Court Agenda-Setting and Decision-Making, 1888-1997, by **Drew Noble Lanier** (University of Central Florida), is forthcoming from Susquehanna University Press. The book examines the agenda-setting and decision-making of the U.S. Supreme Court across a period that encompasses several wars, a Great Depression, a president's attempt to pack the Court, and changes in the Court's jurisdiction. Accordingly, it paints a broad historical picture of the Court, longer than any previous study of these aspects of the Court's business. Providing a wealth of data on the opinions that the Court issued, the book offers, among other things, institutional-level analyses of the composition and dynamics of the Court's workload and agenda. Lanier finds that the drastic decline in the rate of unanimous decisions since the late 1930's portends a changing role for the Court as the members moved away from implicit understandings that they should not voice their individual opinion in a case. Lanier also examines the level of liberalism that the Court has expressed across time, arguing, for example, that the Court was not as conservative in economic matters as many scholars may have believed.

Scheduled for publication in early 2003 is *The Wheel of Law: India's Secularism in Comparative Constitutional Context* (Princeton University Press). Written by **Gary Jacobsohn** (Williams College), the book examines the question of how religious liberty can be guaranteed in societies where religion pervades everyday life. Jacobsohn addresses the dilemma by examining the constitutional development of secularism in India within a cross-national framework that includes Israel and the United States. Exploring the distinctive character of India's 'ameliorative' approach to church/state relations, *The Wheel Of Law* generates insights applicable to contemporary debates in political and legal theory over the constitutional essentials of a liberal polity.

The Separation of Powers: Commentary and Documents is forthcoming from Congressional Quarterly Press in 2003. Edited by **Katy J. Harriger** (Wake Forest University), the volume presents essays by Harriger and other contributors, including political scientists Lou Fisher, Keith Whittington, Mark Graber, Nancy Kassop, Harold Relyea and John Dinan; law professors Neal Devin, Michael Gerhardt, and Thomas Sargentich; and historians Richard Baker, William Leuchtenburg.

In *Constitutionalism and Dictatorship: Pinochet, the Junta, and the 1980 Constitution* (Cambridge University Press), **Robert Barros** reconstructs the politics of institutions within the recent Chilean dictatorship (19731990). Based on extensive documentation of military decision-making, the book suggests that the Chilean armed forces were constrained by institutions of their own design. Providing a detailed account of interactions between the military junta and judicial organs, Barros argues that "when power is founded upon a plural body, institutional limits upon nondemocratic power can be viable." Published as part of the Cambridge Studies in Theory of Democracy series, the book should be of interest to students of comparative judicial politics and democratization and to those interested in the study of military regimes and Chilean politics.

In *Star Trek Visions of Law and Justice*, editors **Robert M. Chaires** (University of Nevado, Reno) and **Bradley S. Chilton** (University of North Texas) "go where no one has gone before." In this "fun" yet scholarly exploration on the law and justice of STAR TREK, Chaires and Chilton have brought together essays from scholars in law, political science, criminal justice, sociology, education, history, ecology, and public administration. The essays present comparisons to contemporary United States as well as international examples. The volume is now available from Adios Press.

The American Legal System: Foundations, Processes, and Norms is due to be released by Roxbury Publishing in 2003. In this text, authors **Albert P. Melone** (Southern Illinois University, Carbondale) and **Allan Karnes** (Southern Illinois University, Carbondale) introduce students to private and public law matters and the judicial process. Part I presents terms and concepts necessary for understanding the legal system, the jurisdiction and authority of courts, the organization of courts in the United States, judicial interpretation and decision-making, and the U.S. constitutional system. Part II focuses on legal processes, providing attention to subjects such as civil suits for money damages and criminal, equity, and administrative processes, and the various modes of alternative dispute resolution. Part III addresses the substantive legal topics of criminal law, torts, property, and family law. Part IV covers the law governing the world of business. Each chapter contains edited court opinions, as well as end-of-chapter discussion questions and listings of selected books and articles for further reading.

The sixth edition of *American Constitutional Law* will be available in January 2003 from Wadsworth. Edited by **Ralph A. Rossum** (Claremont McKenna College) and **G. Alan Tarr** (Rutgers University), this two volume constitutional law text emphasizes the philosophical foundations of the American Constitution. The text is updated to take account of recent developments, including highly topical material on post-9/11 developments (Ex Parte Quirin and President Bush's executive order authorizing military tribunals); affirmative action (Grutter v. Bollinger, the University of Michigan case); and school vouchers (Zelman v. Simmons-Harris). Also

included in the sixth edition are two new features: a chapter on "The Constitution and Native American Tribes" and a new section covering the Second Amendment.

American Constitutional Law, published by Wadsworth, is now in its third edition.
Edited by **Otis H. Stephens** (University of Tennessee, Knoxville) and **John M. Scheb** (University of Tennessee, Knoxville), this text contains thirteen chapters that cover the entire range of topics in constitutional law. Each chapter includes an extended essay providing the legal, historical, political, and cultural contexts for the set of edited United States Supreme decisions that follows. In selecting, editing, and updating the materials, the authors emphasize recent trends in major areas of constitutional interpretation. The new edition features many up-to-date cases, as well as a companion Web site that offers links to Supreme Court archive of cases.

Butterworth-Heinemann announces the second edition of *Death Penalty Cases*. Edited by **Barry Latzer** (John Jay College of Criminal Justice & The Graduate Center of the City University of New York), the text is updated with excerpts from the new Atkins case addressing mental retardation and the death penalty, as well as the latest capital punishment statistics. The text will be of interest to instructors teaching courses on the death penalty or looking for supplements forthe death penalty portion of a more broadly-based course.

Send Information About Your Forthcoming Work to Helena Silverstein at: silversh@lafayette.edu

Section News and Awards

Law and Courts Section Nominating Committee

Please send nominations for Chair-Elect and THREE Executive Committee members to Jeffrey Segal, the chair of the Nominating Committee, who will forward them to the committee members. The Nominating Committee's recommendations for 2003-2004 officers will be submitted for election at the 2003 business meeting of the section at the APSA meeting. The deadline for submitting nominations is February 15, 2003.

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REQUEST FOR PAPER VERSION OF NEWSLETTER

Law and Courts, the official publication of the Law and Courts Section of the American Political Science Association will begin electronic distribitution beginning with Volume 3, number 2 (Spring 2003). All members will **automatically** receive the publication electronically UNLESS you notify our new editor, John Gates (see information below). Please direct all otehr inquiries to the same address.

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Lifetime Achievement Award Committee

The Lifetime Achievement Award honors a distinguished career of scholarly achievement and service to the Law and Courts field. Nominees must be political scientists who are at least 65 years of age or who have been active in the field for at least 25 years. Nominations from previous competitions will be carried forward to the current year's competition. The committee will retain nominations for 3 years, but one may re-nominate an individual and renew the materials in the file.

Nominations may be made by any member of the Section and should consist of a statement outlining the contributions of the nominee and, if possible, the nominee's vitae. Nomination materials should be sent to the Chair of the Committee who will forward them to other members. Committee members may not make nominations for this award. Previous winners of the award are Henry Abraham, Walter Murphy, Harold Spaeth, Sam Krislov, Glendon Schubert, Beverly Blair Cook, Martin Shapiro, and Walter Berns. Deadline for submission of nominations is February 1, 2003.

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C. Herman Pritchett Award Committee

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. Case books and edited books are not eligible. Books may be nominated by publishers or by members of the Section. The award carries a cash prize of $250. To be considered for this year's competition, a copy of the nominated book must be submitted to each member of the awards committee. The deadline for nominations for the award is February 15, 2003.

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CQ Press Award Committee

The CQ Press Award is given annually for the best paper on law and courts written by a graduate student. To be eligible the nominated paper must have been written by a full-time graduate student. Single- and co-authored papers are eligible. In the case of co-authored papers, each author must have been a full-time graduate student at the time the paper was written. Papers may have been written for any purpose (e.g., seminars, scholarly meetings, potential publication in scholarly journals). This is not a thesis or dissertation competition. Papers may be nominated by faculty members or by the students themselves. The papers must have been written during the twelve months previous to the nomination deadline. The award carries a cash prize of $200. To be considered for this year's competition, a copy of the nominated paper should be submitted to each member of the award committee (e-mail attachments, in the form of .pdf files, are acceptable). The nomination deadline is June 1, 2003.

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McGraw Hill Award Committee

The McGraw Hill Award recognizes the best journal article on law and courts written by a political scientist and published during the previous calendar year. Articles published in all refereed journals and in law reviews are eligible, but book reviews, review essays, and chapters published in edited volumes are not eligible. Journal editors and members of the section may nominate articles. To be considered for this year's competition, a copy of the nominated paper should be submitted to each member of the award committee (e-mail attachments, in the form of .pdf files, are acceptable). The deadline for nominations is February 15, 2003.

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American Judicature Society Award Committee

The American Judicature Society Award is given annually for the best paper on law and courts presented at the previous year's annual meetings of the American, Midwest, Northeastern, Southern, Southwestern, or Western Political Science Associations. Single- and co-authored papers, written by political scientists, are eligible. Papers may be nominated by any member of the Section. The award carries a cash prize of $100. To be considered for this year's competition, a copy of the nominated paper should be submitted to each member of the award committee (e-mail attachments, in the form of .pdf files, are acceptable). The nomination deadline is February 15, 2003.

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National Science Foundation seeks Program Director

The National Science Foundation is seeking a Program Director for the Law and Social Science Program. This program fosters empirical research on law and law-like norms and systems in local, comparative, and global contexts. The appointment will begin in the fall of 2003 and will be a Visiting Scientist or Intergovernmental Personnel Act (IPA) assignment for a period of one or two years. The Program Director manages the Law and Social Science Program, encourages proposal submissions, manages the review of proposals submitted to NSF, recommends and documents actions on proposals reviewed, deals with administrative matters relating to active NSF grants, maintains regular contact with the research community, and provides advice and consultation upon request. The position also entails working with directors of other programs and other divisions at NSF in developing new initiatives and representing the agency at professional meetings. Applicants should have a Ph.D. or equivalent in one of the social or behavioral sciences and six or more years of research experience beyond the Ph.D. Applicants should also be able to show evidence of initiative, administrative skill, and ability to work well with others. The per annual salary range is $78,265-$121,967 and is comparable with academic salaries at major U. S. institutions. More information about the position is available from Paul Wahlbeck, the current director (pwahlbec@nsf.gov, telephone:703-292-8762) and from Richard Lempert, Director of the Division of Socialand Economic Sciences (rlempert@nsf.gov, telephone: 703-292-8760).Information about the Law and Social Science Program can be found on theProgram's web page, http://www.nsf.gov/sbe/ses/law. Applicants should senda letter of interest, a curriculum vita, and the names and addresses of atleast three references to the Law and Social Science Program, c/o PaulWahlbeck, Division of Social and Economic Sciences, National ScienceFoundation, 4201 Wilson Blvd., Suite 995, Arlington, VA 22230. Qualifiedpersons who are women, ethnic/racial minorities, and persons withdisabilities are strongly encouraged to apply. Hearing impairedindividuals should call TDD: 703-292-8044.

NSF is an equal opportunity employer committed to employing a highly qualified staff that reflects the diversity of our nation.

Wadsworth Publishing Award Committee

The Wadsworth Publishing Award is given annually for a book or journal article, 10 years or older, that has made a lasting impression on the field of law and courts. Only books and articles written by political scientists are eligible; single-authored works produced by winners of the Lifetime Achievement Award are not eligible. The award carries a cash prize of $250. Any member of the Section may submit a nomination. The nomination should include a statement outlining the nature of the contribution of the nominated work. To be considered for this year's competition, nomination statements should be submitted to each member of the award committee. The deadline for nominations is February 15, 2003.

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Teaching and Mentoring Committee

The Committee selects the winner of the Teaching and Mentoring Award, which recognizes innovative teaching and instructional methods and materials in law and courts. The Teaching and Mentoring Award recognizes innovation in instruction in law and courts. Examples of innovations that might be recognized by this award include (but are not limited to) outstanding textbooks, web sites, classroom exercises, syllabi, or other devices designed to enhance the transmission of knowledge about law and courts to undergraduate or graduate students. The Teaching and Mentoring Award is supported by a contribution from the Division for Public Education of the American Bar Association.

Any member of the section may make a nomination for the Teaching and Mentoring Award by submitting to each member of the award committee a statement identifying the nominee and outlining the nature of the nominatee's innovation and the contribution it makes to achieving the purposes of the award (e-mail attachments, in the form of .pdf files, are acceptable). The deadline for nominations is February 15, 2003.

The Teaching and Mentoring Committee also advises the Organized Section on matters related to teaching and mentoring of students and colleagues.

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Conferences and Events

Upcoming Conferences

Conference	Date	Location	Chair
Georgia Political Science Assoc/	Jan 30- Feb 3	Savannah, GA	Harold Cline hcline@mgc.peachnet.edu
Southwestern PSA	Mar 16-19	San Antonio TX	Laura Langer llanger@u.arizona.edu
Western PSA	Mar 27-29	Denver Co	Keith Whittington kewhitt@princeton.edu
Midwest PSA	April 3-6	Chicago, IL	Isaac Unah University of No Carolina
Justice Studies Association	May 29-31	Albany, NY	Dan Okada bquist@mvcc.edu
APSA	Aug 28-31	Philadelphia, PA	Law and Courts Kevin T. McGuire University of No. Carolina
			Con Law & Jurisprudence Priscilla Machado Zotti U.S. Naval Academy

Law and Courts is the newsletter of the Law and Courts Section of the American Political Science Association.

Subscriptions to **Law and Courts** are free to members of the APSA's Law and Courts Section. Please contact the APSA to join the Section.

The deadline for submissions for the next issue of **Law and Courts** is March 1, 2003.

Law and Courts

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