

LAW & COURTS NEWSLETTER

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Note from Section Chair

LISA HOLMES, UNIVERSITY OF VERMONT

I am writing this update for the *Newsletter* a few short weeks before my tenure as Law and Courts Section Chair ends at the upcoming conference of the American Political Science Association in Los Angeles. The conference in LA represents the fourth APSA meeting in a row that has been affected by forces outside the control of the section or its individual members. After multiple conferences affected by the pandemic, coupled with travel issues preventing some from joining us in Montreal last year, this year's conference has crossed paths with the labor dispute between hotel workers and some hotels associated with the conference in LA.

I cannot attempt to speak for the section's full leadership team with respect to the principled views held by section members concerning decisions about the conference made by APSA, or by this or any other organized section. I will also largely refrain from using this newsletter as an outlet for my personal views on the matter, aside from restating my support for and solidarity with UNITE HERE and striking workers in LA, and my commitment to navigating this situation in a way that prioritized and supported whatever decisions individual section members have made (and may continue to make) for themselves.

What I would like to do here instead is to note my sincere and deep appreciation for those who rallied immediately to assist in finding a path forward for the section and for those individuals—whether section members or not—involved on our panels at the conference. This includes every single member of the section's executive committee, and the program co-chairs for both the Law and Courts Division (Christy Boyd and Valerie Hoekstra) and our friends in the Constitutional Law and Jurisprudence Division (Courtenay Daum and Erin Mayo-Adam). I would also like to thank those at APSA, including Kristin Kessler, who assisted in making many adjustments as needed in finalizing our section's panels and other events. As has been announced on the listserv previously, nearly all panels within the Law and Courts Division are going to be held in person in the Los Angeles Convention Center (LACC), and the LACC will also be the venue for our section's business meeting and catered reception. The remaining research panels will be held virtually, and it is also our plan to stream the business meeting on Zoom, so those who cannot attend in person may listen in on the award presentations, the election of new officers and executive committee members, and reports given by the valued members who have taken on other leadership roles for the section this year. (Any last-minute conference updates, including the circulation of a link to stream the business meeting, will be posted to the listserv as needed.)

Beyond conference logistics, I would also like to note a few other reminders and updates on behalf of the section. As announced previously, Tom Clark has agreed to serve the section for an additional three-year term (through 2026) as editor of the *Journal of Law and Courts*, as the journal settles further into

its new home with Cambridge. In addition, the members of the Committee on Recruitment, Retention, and Equality (CRRE) have been working on a survey to gather information on challenges currently confronting Law and Courts members. The survey will assist in developing programmatic content designed to best serve section members, and particularly those faculty and students historically excluded from the discipline. Please be on the lookout for a future invitation to complete that survey. Members of the CRRE also provided important feedback and advice in developing an initial effort at inviting section award recipients an opportunity to provide information on any preferences regarding names, pronouns, and pronunciation in the context of award presentations at the annual meeting. Many thanks to Gbemende Johnson and Shane Gleason (CRRE's co-chairs) and their committee for all their invaluable work this year, and also to Mike Nelson, for his work on improving the section's inclusiveness concerning award announcements on behalf of the section.

Lastly, I would like to conclude by noting that it has been an honor to serve the section as chair this year. I am appreciative of all those who have provided assistance, advice, and thoughtful feedback throughout the year, including those who agreed to chair and serve on award committees in the spring. I have had a wonderful opportunity to interact with many, many section members in the last year, and it has regularly reminded me of how lucky I am to have the Law and Courts Section as my closest professional home. One person I have had the pleasure of being in particularly regular contact with this past year is Pam Corley, who will be taking over as section chair after the upcoming conference. The section is in very good hands with her as our next section chair, and I am looking forward to continuing to work within the section as a member moving forward. Thank you all very much for this opportunity.

Note from Editor

DANIEL LEMPert, SUNY POTSDAM

I am happy to present Volume 33, Issue 1 of *Law & Courts Newsletter*. This issue features Part II of the Symposium on Text Analysis Tips and Tricks, with contributions by Elizabeth Lane and Jessica Schoenherr, and Doug Rice and Chris Zorn.

Lane and Schoenherr explain how they have successfully incorporated coding by undergraduate research assistants in their projects analyzing large quantities of legal texts. Their paper contains helpful tips for readers who would like to use, or make better use of, undergraduate assistants in their research—regardless of substantive topic. Indeed, several of their recommendations apply even to research assistants who are graduate students.

Rice and Zorn discuss the new opportunities that Large Language Models (LLMs) provide for analyzing legal texts. Their practical introduction to LLMs helps interested scholars to start using this class of methods, which—if trends in other fields and subfields are any guide—will soon become central to analysis of political and legal texts in law and courts.

The Better Get To Know feature includes Ryan Black's interviews with Abigail Mathews and Amy Steigerwalt. And as usual, books covering a wide swath of our subfield are featured in the Books to Watch For section—many “hot off the presses,” with August or September release dates!

I would also like to note a new feature we hope to debut in an upcoming issue. In “Reflections on . . .” we will collect commentary by Section members on a classic Law and Courts article. Contributors may reflect on the legacy, implications, and influence of the “target article,” and/or discuss connections between their own work and the classic piece. The first such article is planned to be Robert Dahl's foundational “Decision-making in a Democracy: The Supreme Court as a National Policy-maker” (1957), and I will soon be reaching out to individuals to solicit contributions. I also invite readers to email me at lcnapa@gmail.com if potentially interested in contributing commentary.

Finally, I would like to thank the *Newsletter* editorial board for their counsel and assistance, and acknowledge particularly the board members who volunteered to review submissions for the last two issues: Nancy Arrington, Onur Bakiner, Jeff Budziak, Martha Ginn, David Glick, Matt Hitt, Ben Johnson, Chris Kromphardt, and Lydia Tiede.

I hope that readers will enjoy the issue, and I look forward to seeing some of you in Los Angeles, whether at the Section business meeting or at one of the many interesting conference panels.

Coding Made Easy? Coding Made Easy! Collecting and Analyzing Text with Undergraduate Coders

ELIZABETH A. LANE, NORTH CAROLINA STATE UNIVERSITY
JESSICA A. SCHOENHERR, UNIVERSITY OF SOUTH CAROLINA

During the 2021 Supreme Court term, the two companies involved in *ZF Automotive v. Luxshare* asked the Supreme Court to decide if a “foreign tribunal” included private commercial arbitration taking place in another country. Attorneys representing Luxshare wanted to use a 1964 law that authorized federal district courts to order discovery in cases involving a “foreign or international tribunal” to compel discovery in a private commercial arbitration case, while attorneys for ZF Automotive argued that private commercial litigation in another country was not a foreign tribunal (Frankel, 2022*b*). Both parties defended their positions using dictionary definitions, but ZF Automotive utilized another resource: a recently-written paper that used “corpus linguistics” to show that the historical definition of “foreign tribunal” did not include private commercial arbitration (Phillips and Egbert, 2021). This new approach did not exactly win the justices over; while Justice Barrett showed familiarity with it, Chief Justice Roberts and Justices Kagan and Kavanaugh openly questioned it during oral arguments (Frankel, 2022*a*). Even so, the Court did ultimately side with ZF Automotive, though the opinion used dictionary definitions (not corpus linguistics) to explain why.

As political scientists, we are not particularly surprised that text analysis is penetrating attorneys’ presentations to the Court, because attorneys look for every possible way to win and finding the right way to use words helps them get there. After all, Supreme Court justices are tasked with definitively interpreting the Constitution and federal statutes, and they do so by looking at written and spoken resources for help (Corley, 2008; Hansford and Spriggs, 2006; Johnson, 2004). After figuring out the interpretation, they present it via written opinions that rarely come with additional explanation (Zilis, 2015). Put differently: words influence outcomes at all steps of the decision-making process. And, after decades of struggling to incorporate this knowledge into our understanding of judicial decision making, technology is finally making it easier to do so. With the help of large data collection efforts and good tools, we now understand that briefs influence final opinions (Black and Owens, 2012; Collins, Corley and Hamner, 2015; Wedeking, 2010); that the justices have preferences about the readability of briefs and the language used in them (Black, Hall, Owens and Ringsmuth, 2016; Feldman, 2016); and that the justices modify the readability of their opinions based on the audience (Black, Owens, Wedeking and Wohlfarth, 2016), to name only a few areas where text

analysis led to better understanding of the Court. When done well, text analysis is *useful*, and we welcome attorneys into this particular research fold.

With that said, the judicial skepticism surrounding corpus linguistics serves as a good reminder that social scientists need to use these tools thoughtfully and be transparent about their limitations and biases. Studying language is *hard*; no one analytical tool works in every situation, and biases exist in everything from document selection (Jennejohn, Nelson and Nunez, 2021), to dictionary deployment (Rice and Zorn, 2021), to the decision to remove stop words (Jones, 2016). Additionally, the law is a specialized language, and there is no guarantee that any of the pre-existing tools developed for text analysis work for particularized languages (Grimmer, Roberts and Stewart, 2022). Because transparency is the key to replicability (Gelman and Loken, 2013), scholars who study text need to be particularly careful about documenting every choice and then endlessly validating those choices (Grimmer and Stewart, 2013). Good documentation and validation are expensive in terms of time and money (Schoenherr and Black, 2019), however, which can lead scholars to sometimes cut corners or avoid text analysis altogether. Both of these outcomes are problematic, with the first leading to bad science and the second leading to no science. What can scholars do to reduce the cost of documentation and validation so they can produce solid work, then?

The answer is deceptively simple and incredibly complex at the same time: train undergraduate students who want to work on research to collect data, prepare it for analysis, and then validate the analyses. Undergraduate students are certainly eager to work on research. In our own experiences, students are increasingly asking to help faculty with research and universities are increasingly happy to fund these endeavors, offering fellowships (and resume lines) to students in exchange for their time. But taking advantage of these generous offers comes with significant costs to scholars, including time devoted to teaching students about the relevant subject matter, training them, monitoring their production, and validating their work. Is the juice worth the squeeze? We say yes! If done correctly, scholars can work with undergraduate students to get their work done more quickly while also helping students grow as scholars and researchers. Over the last six years, the two of us have developed a series of tips and tricks for successfully working with undergraduate coders on text analysis projects, and we now share this knowledge with you here.¹

Collecting and Preparing the Text

The first and most important part of engaging in any type of text analysis is identifying and collecting the necessary documents (Grimmer, Roberts and Stewart, 2022). When studying the Supreme Court, this often means working with sources that are (1) scattered at different libraries and archives across

¹We are going to apply a pretty broad disclaimer here that your mileage on our advice may vary.

the country,² and (2) not at all ready for digital analysis given their analog nature, including docket sheets filled out with pencil and red ink (Black and Owens, 2009), handwritten oral argument and conference notes (Johnson, Wahlbeck and Spriggs, 2006; Maltzman, Spriggs and Wahlbeck, 2000), type-written memos, and actual carbon copies of edited opinions.

In this section, we talk about some lessons learned on how to identify and efficiently use undergraduate students to collect documents and prepare them for analysis. Technological improvements have made collecting and digitizing documents significantly easier than it used to be; rather than copying each document and shipping entire collections back to a researcher's home institution for scanning, processing, and analysis, a researcher armed with a camera, tripod, and some backup batteries can photograph the justices' personal papers and upload them directly to a computer.³

Lesson 1: Find good research assistants — We are fortunate to work at universities where students are willing and eager to work on research and colleges fund students' endeavors to do so. Motivated and interested undergraduate students will happily accept a stipend in exchange for taking pictures of documents or coding data on a Saturday night if given the opportunity to do so. We often use our classes to recruit students, using discussions of our research to talk about the scientific process more broadly (and about the research assistants who came before them). We have also worked with our honors colleges to help find interested undergraduate students.

While finding interested students is reasonably easy, finding dedicated students who can work consistently is more difficult. We all know smart, hungry students who want to do research but overextend themselves and consequently produce little. And once you have committed students, it takes time to find their research strengths—in this case, figuring out if they can handle the detail-oriented work of collecting documents that we talk about in this section and/or the more cognitively complex tasks that we discuss in the next one.

We believe that asking students to complete a training exercise can accomplish all three of these tasks. An ideal training set is one that tests students on a multitude of fronts: their abilities to complete an assigned task in an agreed-upon amount of time, to follow a codebook, to incorporate feedback

²Unlike the president or members of Congress, who are required by law to work with the National Archives to preserve at least some of the paper that crosses their desks, Supreme Court justices' papers are considered private property (Mauro, 2016). Most justices donate some portion of them to the Library of Congress, as Justice Harry Blackmun did (Greenhouse, 2005), or to their alma mater, like Justice Lewis Powell did (Black, Johnson and Wedeking, 2012). Some, like Justice Hugo Black, ask their children to set them on fire (Woodward and Armstrong, 1979). When justices donate their papers, they tend to do so with strict rules about when papers get released, typically requesting they not get released until long after their deaths and the deaths of those with whom they served (Communications, 2017).

³To be honest, even less is necessary, as most cellphones have applications like the Apple Notes app, free on all iPhones, which can scan and read the text all at once.

into their coding, and to pay attention to detail. This exercise does not have to be related to the task they will actually complete as research assistants, but should show the gamut of a student's capacity for different tasks.

We have used the same training set since 2017.⁴ When writing "The Purpose of Senatorial Grandstanding During Supreme Court Confirmation Hearings," we used content analysis to show that our dependent variable, the number of exchanges between a senator and a nominee, was a valid measure of the hostility of a senator's engagement with the nominee (Schoenherr, Lane and Armaly, 2020). To do this, we took a random sample of questions from senators across different Supreme Court confirmation hearings (with the senator and nominee anonymized) and coded the level of hostility in each exchange (pleasant, neutral, hostile, or cross-chatter). We ask potential research assistants to work through a sample of the same data that we coded. Of course, their sample is carefully selected, containing several "easy" exchanges to code as well as some "hard" ones that require more thought; by varying the difficulty of the task, we can see how well potential research assistants do on simple versus more complex coding.

Before hiring undergraduates, we first ask them to complete this coding task so that we can test their skills. We give them a brief background on Supreme Court confirmation hearings (e.g., what they are), then ask them to use the provided codebook and Excel document to complete the coding task, which takes about twenty minutes on average. We ask them to track the time it takes them to complete the task, and we set a deadline for getting it done. After students finish the task, we compare their coding to our own, and then provide written feedback on the entries they missed, trying to highlight key words that indicate hostility or (often) reminding them not to read their own interpretations into exchanges about famous cases like *Roe v. Wade* (1973), which often get discussed during the hearings. We also offer to discuss the findings in more detail in person or over Zoom, though students rarely take this option. With the feedback in hand, we ask students to code a second set of data following the same process.

The students' coding gives us a lot of information from which to work. By assigning a short task and asking potential research assistants to both track their time and return the assignment by a certain date, we can identify students who have the time and dedication to complete the work. By varying the complexity of the coding entries, we can see if students work better on easy tasks or if they can handle the harder ones. And by providing feedback, we can see how well students follow directions and incorporate additional information into their coding. As we discuss later in this piece, this process is not entirely foolproof, but it does a good job of separating out students who might not be ready for this type of work.

In an ideal situation, students get both coding sets done on time, and they

⁴The data, codebook, and an example of feedback provided are available on the Law and Courts Newsletter Dataverse, located here: <https://dataverse.harvard.edu/dataverse/lcnapsa>.

do well on the first set and great on the second; these are the students we can probably trust with detail-oriented and cognitively-complex tasks. If students are getting work done on time but only doing well on the “easy” coding tasks, we talk with them about the issues they are having with the coding and try to figure out if they might be better at detail-oriented tasks with clear rules than the more ambiguous coding tasks, and we hire some of these students too. When students do worse on the second set than the first, or when they fail to return tasks in a timely manner, we have harder conversations about whether or not being a research assistant on this particular project is the right call for the student.

Lesson 2: Set the scene — To work as efficiently as possible photographing thousands of pages of documents, it is important to spend time setting up the workspace. First, set up the camera so that it is as perpendicular to the surface as possible. This will make conversion of photos to readable text easier later. This is especially true when working with thick records or books that are unlikely to lay completely flat. Setting up the tripod and camera may require some crafty engineering on behalf of the research assistant but is easily achievable.

Next, mark what is “in-frame” on the working surface. The resources that are available and the rules of the archive or library can make this a simple or more difficult task. Placing tape on the working surface to outline the space captured in the camera frame is one option. Many libraries have large pieces of card stock for researchers to mark their space in files. Place a piece of this card stock so that is wholly in the frame and then use it as a guidepost to place the documents of interest on top of the card stock to photograph. If tape is not allowed, it is important to regularly check your guidepost is still in-frame. Grab a remote to prevent touching the camera and moving it and start snapping photos!

Lesson 3: Keep detailed records — Regardless of who is responsible for the data collection, making a log of the data collected and data that are unavailable is incredibly important. Logs should include dates, times, and a record of the documents photographed during this time period. This creates transparency and allows researchers to acknowledge the potential biases in their data (Grimmer, Roberts and Stewart, 2022). Importantly, once a research assistant or researcher leaves the data site, it creates a sense of security to know that files or pages were not missed but simply were unavailable or did not exist. Keeping track of times are useful because it can be compared to the metadata contained in each photo. One simple way to do this is to take a photo of each file that is opened. This creates a record to show that a file was opened and examined and also creates an easy to spot break between documents. If the file does not contain the document of interest, photograph the file again with a piece of paper that says “missing” or “no [document type]” so that it is documented that the document was not located.

Lesson 4: Backups on backups on backups — Once uploaded to a computer, researchers or their assistants must convert the text in their digital images to editable text, which allows a computer to recognize the text, and ultimately allows researchers to analyze the text. This process is called optical character recognition, or OCR (Singh, 2013). Numerous applications are available for translating computer-printed text into raw text files for analysis. These applications are easily accessible through programs like Adobe via university subscriptions. ABBYY Fine Reader is another affordable and easy-to-use option, and it allows for manual corrections like, for example, when the text is on a weird angle due to a book's spine.

Typically, collecting text files is a huge undertaking that requires generous time and financial resources. It is thus important to preserve each stage of the data collection in its original form and ensure it is backed up in multiple places. That is, the original photos should be stored in one folder, the converted text files saved in a different folder, and any additional work to the text files should then be stored in yet another folder. Researchers can store these files locally on a computer, but they should also store them on one or more cloud devices. Additionally, each of these documents should be stored on an external hard drive. Working with research assistants can be incredibly rewarding and useful—after all, look at all the data they helped collect! That being said, they can make mistakes. These redundancies will protect a researcher's time and a researcher's data, and allow them to recover any misplaced data or revert back to the data pre-mistake.

Lesson 5: Help your future self — Before the OCR process, the user must provide a name for the text file that will be created, which means that establishing a naming system for documents is crucial. Continuity in this naming is useful as it will allow anyone to refer back to the photos. For example, OCR programs are good but not perfect. If a string of words are unreadable to a human, they will be unreadable to a computer. Referring to the original photographs makes it easy to correct any mistakes.

File naming is also key if one wishes to merge in additional data for analysis later. As we have shown throughout this note, much of what scholars know about the Supreme Court decision-making process comes from justices' archives. Archivists sort many of the justices' case files by docket number. Because this information is written on the document and also appears in other datasets like the Supreme Court Database, following a coding scheme like the term and docket number for each file will make analyzing and merging data later much simpler. For example, if one were collecting cert pool memos for *Roe v. Wade* across multiple justices, they should name the files with the term, justice's initials from which the files come, the docket number, and a number for each page. For example, each photo for Harry Blackmun would be named 1973-HAB_70-18_1, 1973-HAB_70-18_2, 1973-HAB_70-18_3, etc. Then, the text file would be named 1973-HAB_70-18. This creates a naming scheme

that is easy for research assistants to follow, data that are easy for users to trace, and file names that are simple for researchers to parse into its constituent parts.

Analyzing the Text and Validating the Analysis

In Grimmer and Stewart’s (2013) overview of text analysis, they outline four key principles of text analysis, two of which are particularly relevant here: (1) human-assisted coding is the gold standard and computerized analysis can only augment it; and (2) validate everything. Both points are good ones: text analysis cannot exist without human-assisted coding, as humans are astronomically better at understanding language than a computer, but we also need to constantly validate humans’ work because they are not as efficient as computers. No person is maximally productive all the time, and any process that depends on humans must compensate for their inefficiency. This is especially true when working with undergraduate students, who have a multitude of concerns outside of their research work. The lessons we discuss in this section thus revolve around getting the most out of undergraduate coders.

Lesson 1: Assign small tasks and provide lots of details — When working with coders, a researcher’s goal is to extract as much uniform work out of them as you can. One key way of doing this is writing good codebooks that (1) break tasks down into small pieces that reduce cognitive burden while (2) offering ample details and examples so that students understand what you want and what that looks like.

We suggest breaking coding tasks down into tiny pieces because no one is actually good at multitasking. As scholars, we want complete sets of data as quickly as possible, which often results in asking students to collect all the data they can from one document before moving on to the next. But asking students to code everything all at once essentially begs coders to make mistakes. To use Schoenherr and Black’s (2019) coding of merits briefs as an example, asking students to switch from cognitively easy tasks (grabbing attorney names off the first page of a brief) to more complicated ones (searching the entire brief for case citations) to the most cognitively-burdensome tasks (identifying the sentiment surrounding those citations) simply demanded too much from coders—there were too many steps to follow. So instead, they broke one giant task down into three distinct ones that students completed in phases. This allowed students to focus on smaller tasks and get them done before moving into more complicated tasks. Yes, some of those coding tasks might be boring, but boredom is certainly better than inefficiency (and, as we discuss in Lesson 4, students can find interesting things in boring tasks, too!).

Additionally, we suggest giving students many examples of correct coding. Students learn from seeing and doing, so we put examples in the codebook to help them do that. When training students to identify sentiment in Supreme

Court confirmation hearings, we showed students “good” examples where exchanges were clearly hostile or encouraging, and then we showed them several borderline examples and explained the reason for coding them the way we did. In our experience, students code better when they have examples of both.

Lesson 2: Reasonable workloads are good — Everyone needs reasonable workloads, but this is especially true of undergrads who have many other demands on their time. Our general rule of thumb is to give students about two weeks’ worth of work at a time – which means we, too, have coded the data and know about how long it should take to get through it. Giving students a reasonable workload also helps researchers identify when data will be ready and when they need to develop new codebooks and assignments for students.

Lesson 3: Check everything constantly — Students need constant feedback on what they are doing. When students first start working on a project, feedback is essential, as more communication translates to better understanding of the task and better overall coding. Our baseline is to go back and forth with students twice: they code, we check and provide feedback, they code a new set and we check and provide feedback again. Then, and only then, do we let them code on their own (though more on that in a second). Some students need more “reps” before they feel comfortable, however, and we modify these plans as needed to accommodate those students. We give all the students working on the coding task the same first two coding assignments so the students can ask each other questions and work collaboratively as needed. It also, in all honesty, makes us more efficient (because we can just send an answer to a question to everyone) and gives us some data for calculating intercoder reliability statistics.

Later, when students better understand the coding processes and their tasks within it, checking their coding and providing feedback on its quality is still important. We periodically assign students to code the same data, and we have the “right” answers coded on our end. From an efficiency perspective, these periodic checks allow us to look for shirking or overall deviation from good coding practices. But from a research perspective, these checks also allow us to see if we missed any important considerations when creating the coding scheme and give us a chance to fix things before the coding is done. And, again, having students code the same thing lets us check intercoder reliability and ensure students are coding as uniformly as possible.

Of course, sometimes students keep getting things wrong, and no amount of feedback will correct their behavior. While the training procedures we outlined in the first section should help alleviate this problem, it probably will not eliminate it entirely. When students are not doing well at a task after multiple tries, we try different things. First, we try to figure out if they might be better at a different tasks (like the detail-oriented data collection we talk about in the first section), and we will move research assistants around if necessary. If students are genuinely bad coders (and some are!), we try to move

them over to something like an annotated bibliography, where their research skills might be useful. When both of those options fail, we have a serious talk with the student about whether this project is the right one for them, and we sometimes end up letting them go from the project.

Lesson 4: Talk to students about what they find — This is the fun part! Students are always learning things when they code. Because they are deep in the data, they see trends that we might not see . . . and they can study those trends on their own if they want to.

Practically speaking, we always have a “Notes” column at the end of each student’s coding sheet, and we encourage students to leave comments about anything cool or interesting they find in the course of their data collection and coding tasks. When we check their coding, we read these notes carefully and then follow up with students when their notes really are interesting. Sometimes the students get to us first, asking if they can look into something they found. The answer is always yes! Working with undergraduate coders certainly helps us overcome data coding problems, but it also lets us do the best part of our job – encouraging students to, in the immortal words of now-Professor Frizzle,⁵ “get messy and make mistakes” as they work through the research process on their own for the first time.

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⁵Everyone’s favorite science teacher and bus driver, Ms. Valerie Frizzle from *The Magic School Bus*, earned her Ph.D. some time between 1994 and 2020, as documented in *The Magic School Bus Rides Again*.

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Current Opportunities in Text-as-Data for Law & Courts Research

DOUGLAS RICE, UNIVERSITY OF MASSACHUSETTS - AMHERST
CHRISTOPHER ZORN, PENNSYLVANIA STATE UNIVERSITY

Introduction

Recently, large language models (LLMs)—most notably ChatGPT (OpenAI, 2023)—have inspired newspaper headlines, student imaginations, and faculty anxiety. The public clamor around LLMs reflects an insight that is old news for those working with natural language processing (NLP): that progress in that field is happening at an unprecedented rate.¹ The sea change in the fields of natural language processing, computational linguistics, and text-as-data began over a decade ago with transformative work—computationally-feasible vector representations of text data—that itself is now quickly trending towards being outdated.

As others have noted (e.g., Jacobi and Sag (2018), Wedeking (2019)), students of law and courts are uniquely positioned among social scientists to take advantage of such advancements because so much of our focus is explicitly on *texts*. But while the frontiers of language modeling have rapidly expanded, research on law and courts has mostly lagged behind. Given this gap, computer scientists—eager for new spaces to deploy their models—have begun to occupy spaces more traditionally filled by social scientists and legal scholars. Yet these groups have markedly different goals. Computer science and NLP researchers are generally interested in developing tools (for example, those that optimize classification and categorization, conduct machine translation, or complete phrases), while law and courts researchers more frequently want to build evidence to address and answer complex substantive research questions.

Our goal here is to begin to address this gap in goals. To do so, we first provide an overview of the methodological tools available with respect to language modeling, and then discuss the voluminous text-data sources on law and courts which have already been collected and made publicly available. We also provide a link to a brief interactive tutorial for scholars interested in getting started analyzing text.

A Gentle Introduction to Language Models

While the output of ChatGPT generally reads like human language, its underlying operation is based on a simple intuition: identifying the most probable sequences of words (also called “terms” or “tokens”) in response to some

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¹As a recent *New York Times* article (Roose, 2023) notes, the public attention to ChatGPT has surprised many researchers, particularly since the interface was based on an older language model.

prompt. *Language modeling* is the process of developing a model of these probabilities. The sea change in natural language processing work, which undergirds the later development of language models, can be traced to initial work on *word2vec* at Google (Mikolov, Chen, Corrado and Dean, 2013; Mikolov, Sutskever, Chen, Corrado and Dean, 2013). There, scholars demonstrated that models trained to predict word co-occurrences (that is, which words appear together) can yield a *vector representation* for words that better captures the meaning of those words and the relationships between words. These vector representations offered vast improvements in generating natural language over then-standard “bag of words” approaches common at that time.

To understand why, consider three terms: **assault**, **battery**, and **electronics**. Under the old approach (typically called *one-hot encoding*), a text that contained the word **battery** would be coded as 1 for that word (or a count of the number of times **battery** appeared in the text would be recorded), while texts not containing **battery** would be coded zero. The phrase term-document matrix derives from this framework. Consider a corpus of three documents, where the first document features a single word, “battery”, while the other two documents are respectively, a trial court transcript in a case dealing with assault and battery, and a *Consumer Reports* evaluation of the life-span of different battery brands across different electronics. The term-document matrix would encode the frequency of times that each word appears such that a hypothetical version might appear as follows:

Document	assault	battery	electronics
<i>Document One</i>	0	1	0
<i>Document Two</i>	23	18	0
<i>Document Three</i>	0	31	14

While that information was helpful, it ignored the obvious shared semantic meaning between **battery** and **assault**, and between **battery** and **electronics**. Instead, the bag-of-words approach undergirding the term-document matrix encoding treats the difference between **assault** and **battery** as identical to the difference between **assault** and **electronics**.

In contrast to this, vector representations of text (sometimes referred to as a word’s *embedding*) are instead a vector of weights; because it is a vector (rather than a single 0 or 1), it contains more information and can better capture shared semantic meaning among multiple terms. Each word is represented by a distribution of weights over some number of dimensions. In terms of our running example, a hypothetical representation for each word might appear as follows:

Word	Dim. 1	Dim. 2	Dim. 3	Dim. 4	...
assault	0.1	0.1	0.0	0.5	...
battery	0.0	0.2	0.3	0.4	...
electronics	0.0	0.1	0.5	0.0	...

Comparisons of the vector representation distributions—typically through cosine similarity of the word vectors (Hazelton, 2022)—is a robust way of identifying words that share semantic meaning. Moreover, operations on the vectors help demonstrate useful relations; the classic example considers the word vectors for three terms: **King**, **Male**, and **Female**. Typically, the most similar—again, by cosine similarity—to one obtained from subtracting **Male** from **King** and adding **Female** is **Queen**. Thinking more broadly, researchers can obtain a document-level representation then by either averaging or taking the sum of the individual word representations.

Initial work to create these word embeddings employed neural networks to predict word co-occurrences from large web corpora (bodies of text). In predicting word co-occurrences, those models generated embeddings (again, vectors of weights) for each term; because those models generate just a single embedding for each term, they are referred to as *static* embeddings. Within law and courts research, static embeddings have been employed to measure racial bias (Rice, Rhodes and Nteta, 2019), gender bias (Ash, Ornaghi and Chen, 2013), case similarity (Mandal et al., 2021), and to generate domain-specific dictionaries for sentiment analysis (Rice and Zorn, 2019). As an example, in Rice, Rhodes and Nteta (2019), the authors study racial bias by training word embedding models on a corpus of more than one million judicial opinions, then measure the relative average distance—based on cosine similarities between word vectors—between stereotypically white (black) names and positive (negative) words. The results provide strong evidence that, in the language of the law, white names are more associated with positive language while black names are more associated with negative language.

But despite being a major advance on previous models, static embeddings still miss an important element of meaning: that the meaning of a word can change depending on the context in which it appears. To return to the example above, in a static embedding the representation for **battery** would be the same whether it appears in close proximity to the term **electronics** or close to **assault**. A better model of language would adjust those embedding representations based on the specific context in which the term appears. To address this, *contextual embeddings* learn a probability distribution over *sequences* of terms.

To grasp the intuition of this, consider the following sequence of five tokens:

“The jury finds the defendant . . .”

Now imagine assigning a probability to every token in the corpus for which term would appear next. Obviously, some terms (for example, “innocent”) would, empirically speaking, be expected to have higher probabilities than others (e.g., “armadillo”). Considered in the context of our running example, the hypothetical embeddings above for **assault**, **battery**, and **electronics** would be different for each occurrence of the term in the corpus, adjusting each time with respect to the words occurring within that context. Therefore, embeddings of **battery** in an article where it regularly appears with **assault**

would be much different than embeddings of **battery** occurring in an article where it regularly appears with **electronics**.

To learn these probabilities, language models take advantage of the fact that we already know which words appear and in what order within a corpus. As a result, the corresponding models can be *self-supervised*, using data that is not labelled in any way by humans but instead relies on the fact that the appearance (or not) of terms is itself a form of labelling. Language models leverage this in a variety of ways, including models that work forward and backward (e.g., if we take the current word as a target to predict, which words appeared before it and which words appeared after it) (ELMo, Peters et al., 2018) or with “masks” (e.g., if we hide randomly hide certain words so that the model cannot see everything at once) (BERT, Devlin et al., 2018) serving as two important steps to building better embedding representations. The models learn a series of weights that best assign probabilities; those weights are the corresponding embeddings for each term. These contextual representations have been demonstrated to perform exceptionally well at generating natural language across a variety of tasks and settings (see, e.g., Liu, Kusner and Blunsom, 2020).

An area where embeddings have offered especially stark improvement is in supervised learning tasks—for example, document classification (see, e.g., Limsopatham, 2021). Though starting from scratch and training one’s own contextualized (or even static) embedding models is not computationally feasible for many researchers, there are an array of pre-trained models available free and open-access. With such pre-trained models, incorporating state-of-the-art embeddings is simple. Supervised learning models—particularly deep learning models—can incorporate the embeddings as part of the model architecture; in a neural network, the pre-trained embeddings are often an input or similarly “early” layer of the model. On this front, researchers have successfully leveraged embeddings within models predicting overruling decisions (Zheng et al., 2021), case outcomes (Chalkidis, Androustopoulos and Aletras, 2019), extraction of elements of contracts (Elwany, Moore and Oberoi, 2019), and even identification and extraction of legal rationales (Ye et al., 2018; Zheng et al., 2021). As an example, Zheng et al. (2021) develop a model and approach for the automated identification and extraction of legal holding statements from raw text. Of particular importance, they demonstrate that, though pre-trained large language models trained on general domains can handle simple tasks in the legal domain, they struggle to make improvements in more complex tasks. However, fine-tuning (i.e., updating the contextual word embeddings based specifically on legal texts) leads to improvements on more complex tasks like the identification of holdings from legal texts.

In addition to applications in supervised learning, a major value of the learned vector representations is the ability to do word, sentence, paragraph, and document comparisons. At the word level, the classic example is reconstructing analogies. Taking the vector representation of **king** (\vec{king}), you can subtract \vec{man} , add \vec{woman} , and look for the most similar vector

(using cosine similarity or similar vector comparison measures) among all remaining words in the vocabulary; for a suitably trained model, the result is usually *quēen*. These comparisons have served as the backbone for a number of different innovations. In our prior work, we leveraged such representations to build sentiment dictionaries appropriate for the legal domain from a small seed set of positive and negative terms (Rice and Zorn, 2019). In other work, these approaches have been used to analyze different forms of bias, including that based on gender (Ash, Ornaghi and Chen, 2013) and race (Rice, Rhodes and Nteta, 2019). They are also of substantial interest to legal research more broadly, as they are often promoted as a method for uncovering relevant documents (e.g., Sugathadasa et al., 2018) or for building new tools and approaches for legal analysis (Ash and Chen, 2019).

Getting Started

For readers interested in getting started in these areas, a central preliminary choice relates to programming languages. Development of and support for such models is overwhelmingly centered in two primary data science programming languages: R and Python.² At present, development and leading-edge work are generally concentrated in Python, which in turn offers substantially better support. One important example is HuggingFace, a private company focused on the goal of open-sourcing computationally-intensive machine learning. Their [website](#) is a clearinghouse on which individuals and organizations post their models; in addition, it provides a suite of tools that make the adaptation of those models for other specific tasks straightforward. As of this writing, the site included over 5,000 models, detailed guidance on use, and a host of interactive demonstrations.

But while Python is the *lingua franca* of many LLMs, the capabilities of the R language at handling language modeling tasks has expanded considerably in recent years, and continues to do so. The `text2vec` package provides an implementation of the GloVe algorithm for estimating static word embeddings. Support for neural network models and incorporating contextualized embeddings has grown with the burgeoning capabilities of the `keras` and `tensorflow` packages, both of which are supported by the team at Posit (formerly RStudio). And the recent addition of the `gpttools` and `gptstudio` packages simplifies the integration of LLMs into researchers' workflows via APIs. At the same time, in most cases these R installations rely on Python in the background; because of this, work in R can be less streamlined than if one were working directly in Python.

Recognizing the challenges in getting started, we created a short interactive tutorial in Google Colab that works through a series of relatively simple examples in R using U.S. Supreme Court oral arguments. That tutorial can be found at this [link](#). We encourage those interested to copy the tutorial and

²For help getting started in Python, see Hinkle (2022).

play around with it to get the hang of working with these tools in the context of law and courts research.

Data

Of course, the availability of computational machinery is only one part of the text-as-data puzzle; the other is the widespread and growing availability of legal corpora for analyzing the complex legal phenomena that animate law and courts research.

Judicial opinions from the U.S. federal courts (and many state courts) are now widely available through well-curated and well-maintained public repositories. The Caselaw Access Project (<https://case.law/>) at Harvard Law School contains the texts of nearly 7 million cases, all of which are searchable through their website. Researchers can gain access to the source documents—and, critically, their text—through an API. Another alternative for judicial opinions is CourtListener, a database that includes nearly 9 million judicial opinions and their associated metadata at their website (<https://www.courtlistener.com/>). Again, researchers are able to gain access to these documents through an API; for data sources maintained by CourtListener, scholars also have the option of bulk downloads of opinions or other data sources. For researchers interested in oral arguments, ConvoKit provides the open-source Supreme Court Oral Arguments Corpus (<https://convokit.cornell.edu/>), which covers more than 8,000 U.S. Supreme Court oral arguments from 1955 through 2019 (Danescu-Niculescu-Mizil et al., 2012; Chang et al., 2020). The transcripts are matched with the information contained in the Supreme Court Database (Spaeth et al., 2022). Beyond those case- and justice-level variables, the transcripts’ granularity extends all the way to justices’ and advocates’ individual remarks, with information available at the utterance, speaker, and conversation level.

Finally, and perhaps most prominently, 2022 saw the release of an enormous trove of law-related corpora with the “Pile-of-Law” project (<https://huggingface.co/datasets/pile-of-law/pile-of-law>) (Henderson et al., 2022). That body of text contains more than 40 unique law-related data sources, including constitutions, contracts, the Federal Register, the U.S. Code, court decisions from Canada and a host of other international courts, and even legal advice from the online platform Reddit. These data were compiled to support work on language models specifically appropriate for the legal domain; users can select one or more of the corpora or can download the entire “Pile-of-Law.” Along with the release of the data, the project’s authors released LegalBERT, a model for contextualized embeddings based only on law-related data.

Conclusion

To conclude, we believe that law and courts researchers are well-positioned to address a host of questions using LLMs (and text more broadly), at a time

when such work is increasingly urgent. A truly remarkable amount of digitized data—both in terms of its volume and its diversity—on questions of interest to scholars of law and courts is publicly available for analysis, and increasingly sophisticated tools for analysis of that data are free, open-source, and readily available. As one area for consideration, judicial behavior research—which has historically focused either on coarse dichotomizations of case outcomes or has relied on broad qualitative insights—stands to particularly benefit from the insights available through large language models. Because the models consume vast amounts of legal texts, they can aid in identifying more subtle patterns in argumentation, unusual disparities, and better representations of the outcomes of cases. In conjunction with these measurement improvements, scholars can better examine the impact of contextual factors, such as judge characteristics, on decision-making processes. This is but one example of the possibilities. Our aim here is to provide an orientation to that rapidly growing field, with the goal of helping more students of the legal system move into a space with so much promise.

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Better Get to Know: Abigail Matthews

INTERVIEW BY: RYAN BLACK, MICHIGAN STATE

Abigail Matthews is Assistant Professor of Political Science at University at Buffalo, SUNY. She earned her PhD in Political Science from the University of Iowa in 2017 and her JD from Michigan State University College of Law in 2011.

Tell me a little about your background and how you got to where you are today.

After I graduated from college, I wanted to work and be an “adult,” which at the time meant not having homework every night. I knew I didn’t want to go back to Iowa where I grew up, and most of my classmates seemed to move to New York or D.C. Since I didn’t have a strong preference, I flipped a coin and with one large suitcase, I moved to New York City. Two months later, the Twin Towers came crashing down. Thanks to an influx of money to fight terrorism, I was hired as a paralegal in the U.S. Attorney’s Office in the Southern District of NY’s organized crime and terrorism unit. I worked on some of the country’s biggest cases with some incredible people. After working as a paralegal for several years, I went to law school and I loved it. I had always wanted to be a prosecutor, so I interned with the Major Drug Unit in Wayne County (Detroit). Thanks to a very supportive supervising attorney, I conducted my first solo bench trial and won a conviction against a man for trafficking narcotics and having a weapon while in the commission of the crime, which meant a mandatory minimum sentence. It should have been the pinnacle of everything I ever wanted, but I hated it. It didn’t feel like a success in the way winning cases against terrorists and the mafia had at the USAO. Instead, I saw so many flaws in the criminal justice system and I knew I couldn’t be a prosecutor anymore. But I no longer knew what my future would be after graduation. Returning to school in the fall, I published my law review note and was a research assistant collecting data on women nominees to the Supreme Court (for what would become the book *Shortlisted*). Both the publication and the RA work felt more gratifying than my trial experience, and my mentors encouraged me to think about grad school. It had never occurred to me to be a professor, but their encouragement and support set me on my current path.

If you weren’t a political scientist, what would you be instead?

An appellate lawyer.

What are you working on now?

I have several projects with even more coauthors where we explore the effects of a person’s multiple identities, such as race, gender, politics, and professional backgrounds. Together, we are examining judges’ citations in federal circuit courts, whether Supreme Court justices are prejudiced against litigants who have certain characteristics, how a judge’s identity affects who sits on

state appellate courts, and whether state legislators leverage their intersecting identities to produce successful legislation.

Best book on your office shelves people may be surprised by?

My most cherished book on my office bookshelf is a signed copy of Sonia Sotomayor's autobiography. A former student works in the Supreme Court and she knew Sotomayor was my favorite justice, so when she was assigned to Justice Sotomayor's chamber, she asked Justice Sotomayor to sign a copy for me.

What's some good work other than your own that you've read recently and would recommend?

I was on the Pritchett best book award committee last year and the 2022 winning books are fantastic and definitely worth reading:

- *Reimagining the Judiciary: Women's Representation on High Courts Worldwide* by Maria C. Escobar-Lemmon, Valerie J. Hoekstra, Alice J. Kang, and Miki Caul Kittilson
- *Judging Inequality* by Jim Gibson and Michael Nelson

What's your workspace setup like?

Going back to high school, I've always worked at the dining room table, and I still do, mostly because I like being in the middle of things.

What apps, software, or tools can't you live without?

Nothing too fancy: Word or LaTeX, Stata, and Dropbox and Google Drive.

What do you listen to while you work?

If I'm writing, I can't have music playing because I find it's too distracting. But if I'm doing data work or prepping for teaching, I stream my favorite radio station, WFUV, public media from Fordham University.

Favorite research and teaching hacks?

The best teaching hack is to ask for the materials of someone who's taught the class before! I owe a huge debt of gratitude to Morgan Hazleton for sharing everything with me for two separate classes. Anna Gunderson, Kirsten Widner, and Jessica Schoenherr have also been incredibly generous with their materials for other classes I've taught. To the extent that I'm a good teacher, it's because they did the hard work first.

How do you recharge? What do you do when you want to forget about work?

My dogs, definitely. I have a Golden Retriever and a 55-pound mix. They provide wake up calls, comic relief, cuddles, and lots of exercise. I also read a lot of fiction, anything and everything. A few of my recent favorites books are *The Thursday Murder Club* by Richard Osman, *Sea of Tranquility* by Emily St. John Mandel, *Manhunt* by Gretchen Felker-Martin, and *The Southern Book Club's Guide to Slaying Vampires* by Grady Hendrix. Besides that, my partner and I do a lot of home improvement projects on our 86-year-old house,

especially in the summer. This summer we're restoring the original windows and shutters.

What everyday thing are you better at than everyone else? What's your secret?

I'm a pretty good at parallel parking, which I learned when I had to park my roommate's car when we lived in NYC. I'm also excellent at solving Wheel of Fortune puzzles from the comfort of my couch.

What's your biggest struggle in being a faculty member? How do you try to address it?

I hate asking for help and I've had to learn that it's not a weakness but part of the job. The best way I've overcome this problem is to create a community of folks. Together with Alyx Mark and Monica Lineberger, we started the Law & Courts Women's Writing Group for junior women and non-binary faculty. Among other initiatives, we meet monthly to share working papers (at all stages). The best part is that it never feels like "help" in the transactional way I used to envision.

What's the best advice you ever received?

Institutions will never love you back. I'm still working on this one, but it reminds me to set boundaries and prioritize what really needs to be done.

What's the greatest idea you've had that you don't want to do yourself?

Oof, I don't know what's the "greatest." But I'm on the tenure track, so if I think I have a good idea, I will do what I can to make it happen now.

Which junior and senior persons would you like to see answer these same questions?

Monica Lineberger and Rorie Solberg.

Better Get to Know: Amy Steigerwalt

INTERVIEWED BY: RYAN BLACK, MICHIGAN STATE

Amy Steigerwalt is Professor of Political Science and Associate Chair at Georgia State University. She earned her PhD from the Jurisprudence and Social Policy Program at the University of California at Berkeley in 2004.

Tell me a little about your background and how you got to where you are today.

I announced quite confidently at around 5 years old that I would be a lawyer, and held to that statement up until my junior year of college. I was taking a Civil Liberties class, and my professor (Deborah Barrow, who was visiting that semester at Emory University) asked me one day, “why do you want to be a lawyer?” I gave her my answer, she looked at me thoughtfully, and said, “I don’t think you want to be a lawyer; I think you want to study about courts.” She sent me home with copies of various political science journals that had courts articles to read, and, as they say, the rest was history.

If you weren’t a political scientist, what would you be instead?

I always say that if I was to have a second career, it would be as an event planner or personal shopper.

What are you working on now?

Pam Corley, Artemus Ward and I have a book coming out soon from University of Virginia Press that examines the role dissents play in the national legal and political dialogue. A Court majority has to determine whether to respond in the official opinion to a dissent, or simply ignore it. We argue that the majority will be more likely to respond if they view the dissent as a potential threat to the strength of the majority opinion. I’m also working with my coauthor Jeffrey Lazarus to extend our theory of gendered vulnerability—which argues that female members of Congress both face, and perceive they face, a more difficult path to reelection than their male colleagues and so strategically adopt a more constituent-oriented strategy to try and mitigate reelection hurdles—to state court judges.

Best book on your office shelves people may be surprised by?

I’m not sure if anyone will find this a surprise, but I find myself returning a lot to both the Federalist Papers and the Anti-Federalists. They are probably the most dog-eared books on my shelf!

What’s some good work other than your own that you’ve read recently and would recommend?

I really want to encourage everyone to read the special double issue of *Justice System Journal* that Allison Harris and Rebecca Gill guest edited on Race, Gender & Courts. There are some absolutely amazing pieces in that special issue, and they all deserve to be read in full and used for inspiration for future work.

What's your workspace setup like?

I have to have at least two monitors, and a comfy chair. I collect political paraphernalia and so my office at home and at GSU are decorated with the things I've collected, as well as the many items people have donated to my collection over time. And, my home office is painted a really great royal purple.

What apps, software, or tools can't you live without?

I'm really sort of a Luddite, and so I use the basics—a good (non-Mac! I hate them; I break them; it's better for all of us to keep a large distance) computer, Word, and Stata. I am a fan of my new-ish Apple Watch, however, and the Nike Run Club app.

What do you listen to while you work?

If I'm writing, I can't play music. But if I'm coding, I like to listen to girl punk bands like Sleater-Kinney.

Favorite research and teaching hacks?

I'm not sure if it's a hack, but good coauthors continue to make even the drudgery of research a joy. With teaching, definitely do not reinvent the wheel—if you are proposing a new course, see if anyone else has taught something similar and see what they do. I've definitely come up with some of my most successful assignments by seeing what others have done and then modifying them to fit my needs. One thing I've started doing in all of my graduate courses is having them turn in the first 5 weeks or so bullet point summaries of the assigned readings. It gets them in the habit of making these sorts of summaries, and it gives me a really quick way to see whether they are actually understanding the readings as well as where they might be struggling in terms of research design fundamentals, etc.

How do you recharge? What do you do when you want to forget about work?

I run. We also started doing a lot of hiking as a family during the pandemic and now it's become a really fun part of our life. I also really like to travel. And, I love suspense novels with good characters and plots but absolutely no redeeming intellectual value. After being badgered by Ryan to elaborate, I'm admitting here in print/pixels to being a huge fan of Harlequin Intrigue novels and read the ones that get released each month religiously. I also really like anything by Nora Roberts/JD Robb, Catherine Coulter's FBI series, and Kay Hooper's FBI series.

What everyday thing are you better at than everyone else? What's your secret?

Ordering food, especially for groups—the trick is variety so everyone gets to taste a bunch of different things. I always try to pick something I've never had before. Oh, and erring on the side of too much as then you get leftovers!

What's your biggest struggle in being a faculty member? How do you try to address it?

Time management and work/life balance, especially as I've taken on more

administrative roles. One big thing is that I've generally stopped checking my work email on nights and weekends. If something is a true crisis, people will contact you some other way, and likely whatever they are sending an email about can be addressed the next day. I try to make sure I physically block time on my calendar for things like research and treat that time like I would when I'm teaching or in a meeting—it cannot be moved or interrupted. And, I work on being more realistic about what I can and cannot get done, and also on recognizing that we all struggle with this stuff, there's always tomorrow, and, ultimately, it does all get done.

What's the best advice you ever received?

Two things: (1) When you're working, work. No checking email, text messages, etc. It means two solid hours can be way more productive than 8 hours of interruptions and stops and starts. (2) When you put together your tenure/promotion dossier, keep in mind that your colleagues like you a lot, but the reality is that they don't have a darn clue what you've actually done and so you need to make sure you tell them in as much detail as possible.

What's the greatest idea you've had that you don't want to do yourself?

Does a long and/or brutal confirmation process affect judges once they are on the bench? How? Does it make them more likely to rule in certain ways than others; more likely to retire and/or take senior status early; more likely to persuade others not to try for a judgeship; or some other impact entirely?

Which junior and senior persons would you like to see answer these same questions?

I'd love to see Susan Achury (junior scholar) and Christine Nemachek, Rebecca Reid, Maya Sen, and Susan Haire (senior scholars) answer these same questions.

Books To Watch For

Christopher P. Banks. **The American Legal Profession: The Myths and Realities of Practicing Law, 2nd Edition.** Routledge, November 2023. ([website](#)).

This book is a tight and fresh analysis of the American legal profession and its significance to society and its citizens. The book's primary objective is to expose, and correct, the principal misconceptions—myths—surrounding prelaw study, law school admission, law school, and the American legal profession itself. These issues are vitally important to prelaw advisors and instructors in light of the difficult problems caused by the Great Recessions of 2008 and 2020–21 and the disruptions caused by the COVID-19 pandemic. Aimed equally at pre-law advisors and potential law students, this book can be used as a supplement in the interdisciplinary undergraduate law-related instructional market, including courses that cater to majors/minors in political science and criminal justice in particular. It can also be used in career counseling, internships, and the extensive paralegal program market.

New to the Second Edition:

- Expanded coverage to include paralegal and legal assistant training.
- New material on women and minority law students who are transforming law schools and the profession.
- Explores challenges to the legal profession posed by economic recession, Covid-19, high tuition rates, exploding student loan debt, internet technological advances, and global competitive pressures including legal outsourcing and DIY legal services.
- Updated data and tables along with all underlying research.

Sandra Botero. **Courts That Matter: Activists, Judges and the Politics of Rights Enforcement.** Cambridge University Press, October 2023. ([website](#)).

In *Courts that Matter*, Sandra Botero tackles a crucial question: Can courts advance socioeconomic rights? Using a rigorous comparative study of the impact of socioeconomic rights rulings in Colombia and Argentina, Botero argues that such decisions can be significantly impactful when courts deploy certain monitoring mechanisms and when legally empowered organizations in civil society are engaged in the outcome. The book includes case studies of landmark rulings on environmental, health, housing, and other socioeconomic rights and charts pathways for broader applicability through comparison with rulings by the Indian Supreme Court. The book demonstrates how Colombian and Argentine highest tribunals have, at times, successfully configured important new political spaces for the effective pursuit of public policy goals, in conjunction and dialogue with other social and political actors.

Charles M. Cameron and Jonathan P. Kastellec. **Making the Supreme Court: The Politics of Appointments 1930–2020.** Oxford University Press, 2023. ([website](#)).

Appointments to the United States Supreme Court are now central events in American political life. Every vacancy unleashes a bitter struggle between Republicans and Democrats over nominees; and once the seat is filled, new justices typically vote in predictable ways. *Making the Supreme Court* examines 90 years of American political history to show how the growth of federal judicial power from the 1930s onward inspired presidents, the political parties, and interest groups to shape judicial policy through appointments. The result is a new politics aimed squarely at selecting and placing judicial ideologues on the Court, which has transformed the Court into an ideologically driven and polarized branch. Based on rich data and qualitative evidence, *Making the Supreme Court* provides a sharp lens on the social and political transformations that created a new American politics.

The book will be the subject of an Author Meets Critics panel at APSA on Friday, September 1, 2:00 to 3:30pm, Convention Center Room 515A.

Pamela C. Corley, Amy Steigerwalt, and Artemus Ward. **When Dissents Matter: Judicial Dialogue through US Supreme Court Opinions.** University of Virginia Press, September 2023. ([website](#)).

Why are some U.S. Supreme Court dissents read and celebrated, perhaps for years to come, while others are ignored by Court majorities, the media, and the public? This book investigates the Court's internal dialogue to show why some dissents matter to both present and future Court majorities, while others fade into obscurity. Specifically, the justices are engaged, like other actors in the larger policymaking process, in an ongoing debate, or dialogue, over law and policy—a dialogue they engage in primarily through their written opinions, including dissents. Drawing on the private paper of the justices and original data, including textual analysis of opinions, we argue that Court majorities engage with dissents that pose a particular threat to the strength and position of the majority opinion—specifically, well-crafted and attention-grabbing dissents from larger, ideologically mixed coalitions. These results suggest that majorities can be persuaded by thoughtful and careful dissenting arguments but must defend against strident appeals to external actors, including the other branches of government, the media, and the public. This book makes multiple contributions, including expanding the definition of judicial dialogue to encompass the entirety of the Court's work and understanding the role of legal certainty in constraining even dissenting behavior on the Court. The U.S. Supreme Court plays a key role in the broader legal and policy dialogue and dissents play an important role in this dialogue.

Lauren S. Foley. **On the Basis of Race: How Higher Education Navigates Affirmative Action Policies.** NYU Press, September 2023. ([website](#)).

How can universities navigate affirmative action bans to protect diversity in student admissions? In 2023 the Supreme Court banned affirmative action, or race-conscious admissions practices, at American colleges and universities. In *On the Basis of Race*, Lauren S. Foley sheds light on our current crisis, exploring the past, present, and future of this contentious policy. From *Brown v. Board of Education* in the mid-twentieth century to the current *Students for Fair Admissions v. Harvard and University of North Carolina, Chapel Hill*, Foley explores how organizations have resisted and complied with public policies regarding race. She examines how admissions officers, who have played an important role in the long fight to protect racial diversity in higher education, work around the law to maintain diversity after affirmative action is banned. Foley takes us behind the curtain of student admissions, shedding light on how multiple universities, including the University of Michigan, have creatively responded to affirmative action bans. *On the Basis of Race* traces the history of a controversial idea and policy, and provides insight into its uncertain future.

Scott Douglas Gerber. **Law and Religion in Colonial America.** Cambridge University Press, September 2023. ([website](#)).

Law—charters, statutes, judicial decisions, and traditions—mattered in colonial America, and laws about religion mattered a lot. The legal history of colonial America reveals that America has been devoted to the free exercise of religion since well before the First Amendment was ratified. Indeed, the two colonies originally most opposed to religious liberty for anyone who did not share their views, Connecticut and Massachusetts, eventually became bastions of it. By focusing on law, Scott Douglas Gerber offers new insights about each of the five English American colonies founded for religious reasons—Maryland, Rhode Island, Pennsylvania, Connecticut, and Massachusetts—and challenges the conventional view that colonial America had a unified religious history.

Rachael Houston, Timothy R. Johnson, and Eve M. Ringsmuth. **SCOTUS and COVID: How the Media Reacted to the Livestreaming of Supreme Court Oral Argument.** Rowman and Littlefield, May 2023. ([website](#)).

This book compares the volume and nature of online print and broadcast television coverage from major media outlets from all U.S. Supreme Court oral argument sessions during the October 2019, 2020, and 2021 Terms. The authors demonstrate that the move to livestreaming the Court's oral argument sessions increased the frequency and depth of online print news media's coverage in the short term but not in the long term. For both online print and broadcast outlets, their findings suggest that the benefits of increased transparency offered by livestreaming oral argument audio did not come with significant disadvantages for the Court in terms of long-term changes in its news media coverage.

The authors analysis provides timely evidence that speaks to the current, and ongoing, debate about public access to the Supreme Court. It also speaks to the likely consequences of permanently continuing the practice of livestreaming oral argument audio and sheds light on the ramifications of other potential expansions in transparency at the Supreme Court, such as livestreaming opinion announcement audio or providing live video coverage of the Court's proceedings. This work speaks to the impact of increased access to oral arguments and the inner workings of government institutions more broadly. Indeed, the U.S. Supreme Court was not the only institution to grapple with the constraints of the COVID-19 pandemic and opportunities for unprecedented, and instantaneous, access to anyone, anywhere. Better understanding the implications of the Court's decision to livestream audio from its proceedings provides leverage on the consequences of greater government transparency for news media coverage and, by extension, individuals' exposure to, and interaction with, government more generally.

Kevin McMahon. **A Supreme Court Unlike Any Other: The Deepening Divide Between the Justices and the People.** University of Chicago Press, 2024. ([website](#)).

Today's Supreme Court is unlike any other in American history. This is not just because of its jurisprudence. It is because today's Court is uniquely distanced from the democratic processes that buttress its legitimacy. For example, five of the nine justices took their seats after winning confirmation with the support of senators who won far fewer votes than their colleagues in opposition, and three of these five justices were also nominated by a president who lost the popular vote. In *A Supreme Court Unlike Any Other*, Kevin J. McMahon explains the broad historical developments that have brought us here. Drawing on historical and contemporary data and deep knowledge of Court battles during presidencies ranging from Franklin D. Roosevelt to Ronald Reagan to Donald Trump, he offers new insight into the shifting politics of nominating and confirming justices, the changing pool of nominees considered for the Supreme Court, and the increased salience of the Court in presidential and congressional elections. *A Supreme Court Unlike Any Other* is an eye-opening account of today's Court within the context of US history and the broader structure of contemporary politics.

Susan M. Sterett. **Litigating the Pandemic: Disaster Cascades in Court.** University of Pennsylvania Press, August 2023. ([website](#)).

Public health reporters agree a changing climate means increasing pandemic risk. Even before COVID-19 struck, United States groups had practice litigating business and politics. Conservative groups had long maintained governing injury with courts always threatened business's well-being. A pandemic would land in court, and spark debates about courts and harm. The same world awaits other climate-related problems. Litigating climate change exceeds the widely-noted climate-related lawsuits challenging fossil fuel com-

panies. In this book, I synthesize early pandemic lawsuits and debates about lawsuits in the United States as courts governing in a changing climate. A plurality of cases concern insurance, a key industry governing risk, though often outside public debate. Civil rights lawsuits include cases brought to protect confined people who were at increased risk from COVID-19, and cases contesting public health measures. Physical scientists warn of disaster cascades. Seldom do they imagine that governing includes multiple ways to contest problems, including through courts.

Whitney Taylor. **The Social Constitution: Embedding Social Rights Through Legal Mobilization.** Cambridge University Press, August 2023. ([website](#)).

In *The Social Constitution*, Whitney Taylor examines the conditions under which new constitutional rights become meaningful and institutionalized. Taylor introduces the concept of “embedding” constitutional law to clarify how particular visions of law come to take root both socially and legally. Constitutional embedding can occur through legal mobilization, as citizens understand the law in their own way and make legal claims—or choose not to—on the basis of that understanding, and as judges decide whether and how to respond to legal claims. These interactions ultimately construct the content and strength of the constitutional order. Taylor draws on more than a year of fieldwork across Colombia and multiple sources of data, including semi-structured interviews, original surveys, legal documents, and participation observation.

Richard L. Vining, Jr. and Teena Wilhelm. **Administering Justice: Placing the Chief Justice in American State Politics.** University of Michigan Press, August 2023. ([website](#)).

Administering Justice examines the leadership role of chief justices in the American states, including how those duties require chief justices to be part of the broader state political environment. Vining and Wilhelm focus extensively on the power of chief justices as public spokespersons, legislative liaisons, and reform leaders. In contrast to much existing research on chief justices in the states, this study weighs their extrajudicial responsibilities rather than intra-court leadership. By assessing the content of State of the Judiciary remarks delivered over a period of sixty years, Vining and Wilhelm are able to analyze the reform agendas advanced by chief justices and determine what factors influence the likelihood of success. These analyses confirm that chief justices engage with state politics in meaningful ways and that reactions to their proposals are influenced by ideological congruence with other political elites and the scope of their requests. *Administering Justice* also examines the chief justice position as an institution, provides a collective profile of its occupants, and surveys growing diversity among court leaders.

Joanna Wuest. **Born This Way: Science, Citizenship, and Inequality in the American LGBTQ+ Movement.** University of Chicago Press, September 2023. ([website](#)).

Across protests and courtrooms, LGBTQ+ advocates argue that sexual and gender identities are innate. Oppositely, conservatives incite panic over “groomers” and a contagious “gender ideology” that corrupts susceptible children. Yet, as this debate rages on, the history of what first compelled the hunt for homosexuality’s biological origin story may hold answers for the queer rights movement’s future.

Born This Way tells the story of how a biologically based understanding of gender and sexuality became central to LGBTQ+ advocacy. Starting in the 1950s, activists sought out mental health experts to combat the pathologizing of homosexuality. As Joanna Wuest shows, these relationships were forged in subsequent decades alongside two broader, concurrent developments: the rise of an interest-group model of rights advocacy and an explosion of biogenetic and bio-based psychological research. The result is essential reading to fully understand LGBTQ+ activism today and how clashes over science remain crucial to equal rights struggles.

Award Winners

Congratulations to the following winners of this year's Section awards—and thank you to the committee members for their service!

Lifetime Achievement Award. Mark Graber (University of Maryland). (Committee: Kevin McGuire (chair), Ryan Black, Ali Masood, Mark Massoud, and Christine Nemacheck.)

Best Graduate Student Paper Award. Yu-Hsien Sung. “How U.S. Voters Elect Prosecutors: Evidence from a Conjoint Experiment.” Forthcoming, *Political Science Quarterly*. (Committee: Teena Wilhelm (chair), Mark Hurwitz, Andrew O’Geen, Natalie Rogol, and Elisha Savchak-Trogon.)

Best Journal Article Award. Ryan E. Carlin, Marianna Castrellón, Varun Gauri, Isabel C. Jaramillo Sierra, and Jeffrey K. Staton. “Public Reactions to Noncompliance with Judicial Orders.” *American Political Science Review* 116(1):265–282. (Committee: Benjamin Kassow (chair), Eileen Braman, Anna Gunderson, David Hughes, and Laura Moyer.)

Lasting Contribution Award. Michael W. Giles, Virginia A. Hettinger, and Todd Peppers. 2001. “Picking Federal Judges: A Note on Policy and Partisan Selection Agendas.” *Political Research Quarterly* 54(3): 623–641. (Committee: Vanessa Baird (chair), Elizabeth Lane, Raul Sanchez-Urribarri, Logan Strother and Richard Vining.)

Teaching and Mentoring Award. Sheldon Goldman (University of Massachusetts–Amherst) and Laura P. Moyer (University of Louisville), co-recipients. (Committee: Jennifer Bowie (chair), Ellen Key, John Maltese, Salmon Shomade, and David Trowbridge.)

Best Conference Paper Award. Elise Blasingame, Christina Boyd, Roberto Carlos, and Joseph Ornstein. “How the Trump Administration’s Quota Policy Transformed Immigration Judging.” Presented at the 2022 Conference of the Midwest Political Science Association. (Committee: Lori Hausegger (chair), Bethany Blackstone, Todd Collins, Matthew Montgomery, and John Szmer.)

Service Award. Alyx Mark (Wesleyan University), Abigail Matthews (SUNY, Buffalo) and Monica Lineberger (University of Wisconsin, White-water). (Committee: Kirk Randazzo (chair), Nancy Arrington, Alec Ewald, Christopher Parker, and Maureen Stobb.)

C. Herman Pritchett (Best Book) Award. Ke Li. 2022. *Marriage Unbound: State Law, Power, and Inequality in Contemporary China*. Stanford University Press. (Co-recipient.)

Tommaso Pavone. 2022. *The Ghostwriters: Lawyers and the Politics Behind the Judicial Construction of Europe*. Cambridge University Press. (Co-recipient.)

Morgan L.W. Hazelton, and Rachael K. Hinkle. 2022. *Persuading the Supreme Court: The Significance of Briefs in Judicial Decision-Making*. University Press of Kansas. (Honorable Mention.)

(Committee: Susan Burgess (chair), Beau Breslin, Paul Collins, Ken Kersch, and Shannon Smithey.)

Call for Submissions

Law and Courts Newsletter publishes articles, research notes, features, commentaries, and announcements of interest to members of APSA's Law and Courts Section. The various substantive topics falling under the umbrella of "law & courts" are welcome, as are methodological approaches from across the discipline of political science. I am particularly interested in receiving the following types of submissions:

Descriptions of Datasets. Creators of publicly-available datasets potentially useful for Section members' research or teaching may submit descriptions of their datasets. Although the datasets should be relatively new, it is acceptable for the data to have been used and described in previously published research. Submissions should describe (and link to) the dataset, give practical advice about viewing and analyzing the data, and explain how the data might be used in Section members' research or teaching (including for undergraduate student research). Submissions describing relevant software or other tools are also encouraged.

Research Notes. These submissions should be approximately 2,000 words in length (a target, not a limit), and may be theory-focused or empirics-focused. The former should present theoretical arguments relevant to law & courts literature, but need not involve concurrent empirical testing. The latter should present empirical results—including adequately powered "null results"—with only the most necessary literature review and theoretical discussion included directly. Replications and extensions are also welcome. I hope that these notes will inspire research ideas for readers, spur collaboration among Section members on projects greater in scope, and prevent duplication of effort caused by the file drawer problem (i.e., the systematic non-publication of null results).

Reviews of Recent Developments in the Literature. These submissions should be literature reviews of approximately 4,000 words focused on recent developments in active areas of law & courts research. A review should summarize and analyze recent developments in a line of research, and suggest open questions and opportunities for further research. Authors should aim their reviews at readers who research and teach in law & courts, but are not necessarily specialists in the area of research discussed. I seek such submissions particularly from graduate students, whose prospectuses, dissertation chapters, etc., may form the basis for such reviews. I hope that these reviews will provide Section members with a convenient means of keeping up with the literature across the law & courts field.

In addition, the *Newsletter* solicits research articles (including research about the Section), commentaries about the profession, proposals for symposia, and announcements (including of newly-published books) that are of interest to Section members.

Instructions for Authors

Submissions are accepted on a rolling basis. Scholarly submissions will typically be reviewed by the editor and one editorial board member. Submissions and questions about possible submissions should be emailed to lnapsa@gmail.com. Initial submissions should be sent in PDF format and may be written in Word (LibreOffice, etc.) or TeX. Authors should follow *APSR* formatting, as described in the *APSA Style Manual*. Submissions need not be blinded. Please avoid footnotes and endnotes unless absolutely necessary, and aim for concision. Appendices are encouraged for information that is relevant but not of primary importance. Upon publication, I ask that authors consider posting replication data and code for articles involving statistical analysis.

Section members who have written books they would like to see featured should email basic information about the book, including a 1-2 paragraph description, to lnapsa@gmail.com.

–Daniel Lempert, Editor

Newsletter and Section Information

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