# Law and Courts Newsletter

## A Tribute to Professor Jeffrey A. Segal: The 2018 Lifetime Achievement Award Winner

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The Lifetime Achievement Award is widely recognized as the most important award that the Law and Courts Section can bestow upon its members. There are numerous worthy candidates for this award each year and that makes the competition quite tough indeed. The award is given to an individual over the age of 65 who has made important sustained contributions to scholarship in law and courts. As chronologically the first three individuals to complete the doctoral degree under Jeff Segal's supervision at Stony Brook, we are greatly pleased and proud that Segal has joined that select group of scholars that has been recognized with this most august award.

In this essay, we pay a tribute to Professor Segal for his outstanding scholarship and his mentoring of a great many judicial scholars in our subfield.

Jeff Segal is the SUNY Distinguished Professor of Political Science at Stony Brook University. After 34 years in the law and courts subfield, Jeff has reached that point in his career where it is appropriate for the subfield to acknowledge his many scholarly achievements and pivotal contributions to judicial politics and

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 and political science. As you may know, Jeff Segal is one of the most prominent political scientists. However, we fully recognize that the Lifetime Achievement Award (LAA) is not bestowed based of mere prominence. In Jeff's case, however, his prominence is derived straight from his many transformative contributions to the discipline as a scholar, teacher, and mentor. This, we think is the chief attribute that has made Segal most deserving of the Lifetime achievement award this year.

To paraphrase the Latin expression, "res ipsa loquitor," Jeff's record really speaks for itself!

Jeff Segal's research is driven by the need to answer big and important questions in Judicial Politics. Questions such as: What are the behavioral motivations surrounding the decisions of the most august constitutional court in the United States? To be sure, his research into the empirical attributes of judicial decision making is voluminous. We cannot do it justice in this little space we have been offered. However, we do present a simple digest of that work as an exhibit of his important lifetime contributions to judicial scholarship for which Segal remains one of the most cited political scientists of his generation. According to Google Scholar, Segal's current citation count is the highest in judicial politics and stands at 13519 and rising.

Since earning his Ph.D. in 1983 under Professor Harold Spaeth's supervision, no one has written more and more insightfully about elements of decision making inside the United States Supreme Court than Jeff. Along with his impressive research into what transpires behind closed doors in the Court, Segal's work also advances our understanding of institutional interactions and activities in the external political environment that implicate the Supreme Court, including the confirmation of justices, separation of powers, Senate elections, public opinion, hierarchy of justice, data curation and procurement, litigation activities and among several others.

Segal's main contributions include:

**Moving Beyond Case Method in Analysis of Fourth Amendment Jurisprudence.** During the 1970s and earlier, the case method predominated analysis of fourth amendment jurisprudence. Whereas scholars can gain tremendously from conducting detailed analysis of a set of cases, it was difficult to generalize findings and to see consistency in the underlying pattern of Supreme Court decisions. Segal (1983, APSR) convinces us that the problem was not with the cases themselves but with how the cases were being studied. Jeff was among the first judicial scholars to use maximum likelihood estimation methods to understand judicial decision making. Through this sophisticated new methodology at the time, he shows us that the Court's opinion often boils down to a single aspect of the case. Yet the decision itself would typically depend upon many factors—presumably, the fact patterns—but also factors that go largely undiscussed in the main opinion. This article sets up for Segal, a lifetime of major contributions that expanded upon the personal element in the decisions justice make.

**Re-conceptualizing and Dramatically Popularizing the Attitudinal Model.** Building on the work of several great scholars, including Pritchett and Murphy, Segal helped bring the theory of the attitudinal model into popular political science usage. While earlier proponents of the behavioral approach such as Pritchett and Murphy redirected the scientific study of law and courts toward the personal element in decision making, it was Segal and his collaborator, Harold Spaeth, who moved this conceptualization forward by giving it a deceptively simple logic: "Antonin Scalia votes the way he does because he is extremely conservative; Thurgood Marshall voted the way he did because he was extremely liberal." Addressing individual values and policy preferences of jurists now constitute a requirement of any serious empirical examination of judicial behavior, not only in the U.S. Supreme Court but in lower federal, state courts, and international courts of justice (Segal and Spaeth 1992; 2002).

**Measuring Attitudes Independently of Justices' Votes.** Part of his contribution is also in telling us that the attitudinal model does not fall into the trap of circular reasoning, contrary to the chronic laments of critics of earlier scholarship on the matter. For sure, Segal admitted that: "An attitudinal model that measures the justices' attitudes by their voting behavior and then explains their votes by their attitudes would be unfalsifiable" (Segal and Speath 2002, 47). Yet, for the Supreme Court, a reasonable solution would be to develop measures of judicial attitudes that are wholly independent of the justices' votes on the bench.

Segal, an avid reader of the New York Times, found the solution to this theoretical conundrum right under his nose, i.e., in the newspaper. If judicial scholars can show that editorials in major national newspapers about nominees to the Supreme Court are a reasonable proxy for justices' attitudes and policy preferences, then the problem of circular reasoning that has undermined and bedeviled the work of earlier behavioral theorists would be largely solved. Eureka! He demonstrated this solution superbly in "Ideological Values and the Votes of U.S. Supreme Court Justices" (Segal and Cover 1989, APSR).

**Measuring Issue Salience.** Among Segal's many measurement contributions, his measurement of issue salience and its importance to justices' votes is among the most important and widely read contributions. The problem of measurement often leads to misinterpretation of the level of national importance justices attached to issues under consideration. Segal has detailed the problems that afflict previous measures of issue salience, including the lack of transportability and lack of contemporaneousness. Once again, he turns to the newspapers. Jeff tells us that we can capture the political salience of the case by discovering whether the opinion was discussed on the front page of the New York Times once it was issued by the Court. It turns out this measure was a significant and more defensible improvement over previous measures of issue salience (Epstein and Segal 2000, AJPS).

Capturing Life in a Judicial Hierarchy.

Principal–agent models are a big deal in finance, economics, organizational behavior, and institutional analysis within political science. The application of these models in judicial politics is gaining in popularity and sophistication and is helping to transform our understanding of these models within our subfield. Segal's work has featured prominently in that transformation.

His research on principal–agent theory demonstrates the importance of hierarchical control. He has addressed two very important but related questions. The first is whether and how courts of appeals judges follow Supreme Court precedent. After all, if the cannons of judicial interpretation are to gain credence and veracity, then courts of appeals judges must behave "as if" precedent matters. Second, if courts of appeals judges do follow precedent, why and under what conditions do they treat Supreme Court precedent favorably or unfavorably? Through his work with Don Songer and Chuck Cameron, Segal demonstrated the functional utility of legal precedent to courts of appeals judges (Songer, Segal, Cameron, 1994, AJPS). Furthermore, he tells us that lower court judges treat Supreme Court precedent more harshly when the current Supreme Court is ideologically estranged from the "enacting" Supreme Court. He further demonstrates that the preferences of contemporary court of appeals judges are unrelated to their behavior on the bench, which supports the effectiveness of hierarchical control by the Supreme Court (Westerland, Segal, Epstein, Cameron & Comparato 2010, AJPS).

Other important contributions are in the following areas:

**Senate Confirmation of Supreme Court Nominees.** Article II of the U.S. Constitution calls upon the Senate to confirm presidential nominees to the

Supreme Court. Today, we take it for granted that Senate confirmation of Supreme Court nominees is predicated upon both institutional and partisan concerns. Yet, Jeff was among the first to empirically demonstrate and validate this important fact. He reminds us about the importance of conceptualizing Senators as human decision makers who hold goals and concerns just like Supreme Court justices, and that we must find a way to empirically capture these concerns in our understanding of the confirmation process (Segal 1987, JoP; Epstein and Segal 2005).

**Polarized Support for U.S. Supreme Court Nominees.** Conventional wisdom holds that contemporary American politics is characterized by deep and profound partisan and ideological divisions. It is unclear, however, whether those divisions have spilled over to Senate confirmation of Supreme Court nominees. Since the Court is often intimately involved in making policy on many issues that divide Americans—including the contested 2000 presidential election, gun rights, campaign finance reform, gay marriage, and the death penalty—it is reasonable to hypothesize that support for the Court's nominee would depend upon nominee qualification and ideological closeness to a senator's constituents. Segal tells us that senators routinely vote to confirm nominees who are perceived as well qualified and ideologically proximate to senators' constituents. When nominees are less well qualified, and are relatively distant, however, senators' votes depend to a large degree on the political environment, especially the status of the president's popularity (Cameron, Cover and Segal 1990, APSR).

**Robert Bork and the "New Regime" in Confirmation Politics.** Throughout the landscape of American politics, institutional change takes place regularly and confirmation politics are not immune from this reality. Some changes are overt, loud, and quite noticeable. Others are subtle, latent, not easily noticed even by interested publics. Yet these can be equally transformative. When it comes to nomination of Justices, many have questioned whether a new confirmation regime

was initiated during the confirmation of Robert Bork in 1987, a regime that "deemphasizes ethics, competence, and integrity and stresses instead politics, philosophy, and ideology." Jeff's research with several colleagues tells us that these suspicions have empirical bases. Their conclusion is that the Bork nomination did indeed usher in a new confirmation regime. Moreover, while the importance of ideology has reached new heights in today's confirmation world, the senate's heightened reliance on ideology in confirmation voting harkens back to the 1950s. Quite importantly, candidates' professional merit remains a significant determinant of success in the senate (Epstein, Lindstä dt, Segal & Westerland 2006, JoP)

**"Buyer Beware."** We know that American presidents typically appoint likeminded individuals to the Supreme Court in the hope of building a policy legacy. But have you ever wondered whether presidents get what they bargained for in the judicial selection process? This is obviously an important question because, owing to judicial independence, justices do not necessarily cater to their appointing president's preferences once they are the bench. But what is the evidence? Segal and some of his former graduate students have examined this question successfully in "Buyer Beware….." Utilizing the domains of social and economic policy, they examine the voting behavior of Supreme Court justices from 1937 to 1994 and concluded that "Presidents appear to be reasonably successful in their appointments in the short run, but justices on average appear to deviate over time away from the Presidents who appointed them." From the perspective of Democratic theory, these are very hopeful findings as they confirm that the principle of judicial independence is alive and well (Segal, Timpone, and Howard 2000, PRQ).

**Supreme Court Compendium and Data Curation.** Segal has made numerous data contributions through his work on Supreme Court decision making and institutional analysis. Beyond developing creative ways to measure judicial politics concepts and ideas, Segal has been heavily involved in developing measures and

and updating tables in the Supreme Court Compendium, a collaborative project he has embarked upon with Epstein, Walker, and Spaeth. In our opinion, this is one of Jeff's most significant contributions to our research efforts and classroom presentations to our students. It remains the "go to" source of data for undergraduate and graduate students as well as for professionals in the judiciary, mass media, and academia.

We could go on and on and discuss Jeff's contributions to our understanding of aggressive grants and defensive denials of certiorari, the rational actor theory of litigation, solicitor general's behavior and influence on the Supreme Court, public opinion, whether Supreme court justices' preferences change over time, judicial common space, stare decisis, senate elections, implementation and impact analysis, and several publications in law reviews, etc, etc. We think the record is simply amazing, clear, and noteworthy.

We conclude with some final observations that place Segal's lifetime of contributions in a more comparative light:

1. Segal is one of the most widely cited scholars under the judicial politics category with currently over 13,500 citations. This is, of course, not surprising because most of his work is excellent and is therefore published in top journals. He has amassed a record that most excellent political scientist can only dream about. Segal has published in the American Political Science Review (8 research articles), The Journal of Politics (8 research articles), and the American Journal of Political Science (9 research articles).

2. Segal's many contributions to political science scholarship have been recognized by The American Academy of Arts and Sciences, where he was inducted as a Fellow in 2012 and by The Guggenheim Foundation, which honored him as a fellow in 2011. In addition, he has received 29 other Awards and Honors during his stellar career. Of course, the lifetime achievement

award from the Law and Courts Section that he has now received carries very special meaning indeed!

3. Segal's service record is extensive, ranging from his many committee assignments at the National Science Foundation (including serving on the Advisory Committee for the Directorate) to service on editorial boards of political science journals (and including an incredible amount of peer reviewing for journals and book publishers).

4. Most importantly, Segal is not only a dedicated scholar, he is an overwhelmingly dedicated mentor to graduate students. He has taught, mentored, and graduated over 14 Ph.D. students at Stony Brook University during the last 23 years. This does not include numerous terminal Master's degree students that also claim Segal as their thesis preceptor. We salute you Jeff Segal! Thank you for your friendship and firm contribution to our intellectual growth as scholars. We know that the intellectual seeds that you have planted will continue to germinate, grow, and bear further intellectual fruits for the subfield of law and courts and the discipline of Political Science.

*2018 Lifetime Achievement Award Committee:*

Melinda Gann Hall (Chair), Michigan State University

Taneisha Means, Vassar College

Timothy Johnson, University of Minnesota

Amy Steigerwald, Georgia State University

Paul Wahlbeck, George Washington University

# 2018 APSA Award Winners

**Best Journal Article Award**

**Winner:** TBA

**Committee:**
Christopher Zorn (Chair)
Lydia Brashear Tiede
Tom Clark
Rachel Hinkle
Mitch Pickerill

**Service Award**
**Winner**: Wendy Martinek

**Committee**:
Richard Pacelle (Chair)
Terri Perreti
Greg Goelzhauser
Gbemende Johnson
Todd Collins

**Teaching and Mentoring Award**

**Winner**: Bethany Blackstone

**Committee**:
Rebecca Gill (Chair)
Michael Zilis
Ali S. Masood
Chad Westerland
Salmon Shamade

**Best Conference Paper Award**

**Winner:** Morgan L.W. Hazelton, Racheal K. Hinkle, and Michael Nelson, for their paper: *"The Elevator Effect: How Collegiality Fosters Public Consensus."* Presented at 2017 MPSA

**Honorable Mention:**
Nancy Arrington, Leeann Bass, Adam Glynn, Jeffrey K. Staton, Brian Delgado, Staffan I. Lindberg for their article: *"Appointment Rules and Gender Diversity on High Courts."* Presented at the 2018 MPSA

**Committee**:
Valerie Hoekstra (Chair),
Michael Fix
Eileen Braman,
John Patty,
Banks Miller

**Lasting Contributions Award**

**Winner**: Melinda Gann Hall

**Committee**:
Robert M. Howard (Chair)
Shenita Brazilton
Brett Curry,
Virginia Hettinger
Claire Wofford

**Pritchett Award for Best Book**

**Winner**: Lawrence Baum for his book: <u>Ideology in the Supreme Court</u> (Princeton University Press, 2018)
**Committee**:
Ryan Black (Chair)
Ezequiel Gonzalez Ocantos
Alicia Uribe-McGuire
Michael Nelson,
Drew Lanier

**Best Graduate Student Paper Award**
**Winner**: Nancy B. Arrington. for *"Gender and Judicial Replacement: The Case of U.S. State Supreme Courts."* <u>Journal of Law and Courts</u>, Spring 2018

**Honorable Mention**:
Nikhil (Nik) Kalyanpur for his paper: *"Liberalism as Last Resort: Why (Only Some) Oligarchs and Autocrats Fight in Foreign Courts."* Presented at the 2018 MPSA

**Committee**:
Jeff Yates (Chair)
Bethany Blackstone
Deborah Beim,
Rebecca Hamlin
Maxwell Mak,

## 2018 Nominations Committee

Susan Sterett (Chair), University of Maryland, Baltimore County

Chris Bonneau, University of Pittsburgh

Patrick Wohlfarth, University of Maryland, College Park

Laura P. Moyer, University of Louisville

Thomas Hansford, University of California, Merced

## Nominations Slate:

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Treasurer: Lee Demetrius Walker, University of North Texas

Executive Committee: Josephine Dawuni, Howard University

Virginia Hettinger, University of Connecticut

Doug Rice, University of Massachusetts, Amherst

Alternates: Michael Fix, Georgia State University; Erin Kaheny, University of Wisconsin–Milwaukee; Susan Johnson, University of North Carolina at Greensboro

# 2018 SPSA Conference-Within-A-Conference Resources

MORGAN HAZELTON - SAINT LOUIS UNIVERSITY

RACHAEL HINKLE- UNIVERSITY AT BUFFALO

MICHAEL NELSON - PENNSYLVANIA STATE UNIVERSITY

JIM GIBSON - WASHINGTON UNIVERSITY IN ST. LOUIS

Susanne Schorpp (Georgia State) and Rachael Hinkle (University at Buffalo) organized a Conference Within a Conference at the 2018 SPSA meeting. The conference was centered around "Bridges to Judicial Politics" with the express purpose of providing early career scholars the opportunity to receive feedback on their work in a constructive environment while also providing scholars at all career stages with practical information for the research process. With the latter goal in mind, each panel for the conference within a conference began with an Informational Session that provided scholars with hands–on information that they can use in their own research.

In the spirit of making this information broadly available, this symposium provides short summaries of three of these informational sessions. First, Morgan Hazelton (Saint Louis University) discusses a resource she assembled to document publicly available data on law and courts. Second, Rachael Hinkle (University at Buffalo) describes how to use Python to process citation data. Finally, Michael Nelson (Penn State) and Jim Gibson (Washington University in St. Louis) explain how they have used online survey technology to improve the reliability and validity of data coded by research assistants.

## Law and Courts Data Sources

### Morgan Hazelton, Saint Louis University

The judicial politics community is fortunate to have long been the beneficiary of a wealth of publicly available data. However, finding the appropriate dataset is not always easy, and not all scholars may be aware of all possible resources. To assist law and courts scholars, especially graduate students, to find these existing data sources, I have assembled a list of such resources at http://www.morganhazelton.org/resources. I am planning to expand and maintain this list, including adding more information regarding various sources, over time. If you are aware of a source that should be on this list but is not, please contact me at morgan.hazelton@slu.edu. Also, please feel free to reproduce or link to this list.
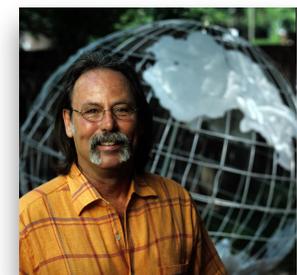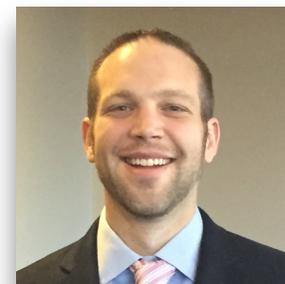
## Automated Processing of Citation Data

Rachael Hinkle, University at Buffalo

Scholars have long noted the importance of the citations within judicial opinions. Shepard's Reports provide a host of useful information about all citations to any given case. Yet extracting the relevant information for a large number of cases can be unwieldy and time-consuming if done by hand. Python offers the opportunity to extract relevant information into a more usable format, but building such code from scratch can seem like an insurmountable obstacle for those not familiar with Python. Both explanatory slides and my Python code to extract information from the text of several Shepard's reports and produce a single spreadsheet with all the relevant information are available at http://rachaelkhinkle.com/resources.html. In this article I will summarize the process of both how to use the code and how it works.

## Python: It's not that scary

Getting started with Python can seem complicated because there are many options available. But you can get it installed and up an running in just a couple of steps. Installing Anaconda (www.anaconda.com) provides not just Python, but also Jupyter Notebook, which is a handy way to run Python code (just like RStudio is a handy way to run R). After installing anaconda, go to the Terminal (Mac) or Command Prompt (PC)*, type "jupyter notebook", and hit enter.

*Note: For Mac users, go into Applications, then Utilities, then click on Terminal to open up the terminal. For PC users, go to Search or Run, type "cmd", and press enter (at least that's what Google says).

Jupyter notebook files have the file extension .ipynb. These files are handy because they can contain individual blocks of code that can be run individually. You can also include other types of information like blocks of text (for documentation). You can also choose to save this type of file after running the Python code and it will save the output alongside the code itself. To begin, navigate through the files on the Jupyter notebook screen to open the downloaded file from my website named "HinklePyDemoSPSA2018.ipynb" (see the link above). Each individual block of code can be run by selecting it and clicking on the button in the toolbar that looks like a "Play" symbol. After changing any code within a block, simply click the "Play" button again to re-run the code in that block.

## Unpacking the Code

The code is designed to receive as its input a series of raw .txt files that each contain a Shepard's Report for a single case. The output is a spreadsheet in a .csv file that contains one row for each citation in each of the text files. The spreadsheet contains seven columns which contain the lexis citation of the precedent, the number of the citation (within the report for the relevant precedent), the citation to the citing case, the citing court (or, more generally, the subsection a citation is listed within), the year of the citation, the treatment, and the raw text of the full citation block listed in the report.

Each of the extracted pieces of information comes from a different location within the raw text files that are the starting point. The citation of the precedent comes from the filename itself. The information on the citing court is a bit tricky because each report has several subsections and the heading of each describes the general type of source of a citation. This is usually a court such as "LOUISIANA SUPREME COURT" but it can also be a preliminary section of the report like "PRIOR HISTORY" or a citation from a non-court source such as "BRIEFS" or "LAW REVIEWS". The code

is designed to capture each new subsection heading as it occurs. That heading will be used as the "CitingCourt" variable for every following citation until the next subsection begins. The remaining pieces of information are specific to each individual citation. In order to extract this information the code identifies each individual citation block and then parses it to separate out the citation number, citation of the citing case, year, and treatment. Finally, the entire line of the citation is included in the spreadsheet to make available any other information the researcher may wish to consult.

The code primarily leverages regular expressions to parse and extract the information in each text file. Although it looks complicated, a few key principles form the foundation of this code. Surprisingly little time is required to become familiar with the basics of regular expressions. The results are extremely powerful, especially as implemented in Python. As a result, this code not only will help parse citation reports, but it can also serve as a starting point to begin parsing any type of textual data. Happy coding!

## Using Survey Technology for Data Collection**

Michael J. Nelson, Penn State

James L. Gibson, Washington University in St. Louis

Much research on judicial decisionmaking requires the coding of appellate court opinions. Barring advances in computational techniques, many variables that are vital to the legal content of a judicial opinion must be coded by hand. In many multi-user judicial databases, these variables are coded by experts, most notably Harold Spaeth in the Supreme Court Database. In other datasets, like the State Supreme Court Data Project, student research assistants read and coded the judicial opinions. In still other applications, researchers might give research assistants a spreadsheet and codebook, asking the assistants to carefully enter the appropriate values into the spreadsheet as they code the cases.

In all of these cases, securing the reliability and validity of the coded data is of the utmost importance. Yet, in perhaps the most common way that cases are coded—giving research assistants direct access to a spreadsheet that will then be analyzed by the researcher—both reliability and validity are endangered when research assistants make innocent errors. For example, a research assistant might become confused about the coding scheme, entering an incorrect value into a coding spreadsheet. Or, a research assistant might incorrectly sort the spreadsheet or absentmindedly delete rows from a spreadsheet, harming data validity.

Many of the weaknesses of a spreadsheet-based approach to coding can be rectified by providing RAs with a web form. By coding data through a form, rather than a spreadsheet, coders are limited in the answers they can provide to each question and their ability to manipulate the raw data. For example, the Supreme Court Database has advanced beyond Spaeth's original notecard-based coding scheme to a sophisticated online coding interface. However, this interface could only be created through the generous support of the National Science Foundation, a resource unavailable for many run-of-the-mill research endeavors. Similarly, Brace and Hall's project used a Microsoft Access database, which has many of the advantages of the sophisticated SCDB approach. However, many coders do not have access to computers that contain that proprietary software program. It would be ideal to allow coders to complete their work from anywhere in the world without any proprietary software.

We faced these issues recently. With the support of the National Science Foundation, we are currently coding thousands of state supreme court decisions related to Americans' social, political, legal, and economic inequality. While some of the information we need about each case (e.g., its title, decision date, and the number of dissenting and concurring decisions) can be parsed from the text

of the case without much trouble, much of the information we need about these cases (e.g., the doctrinal basis of the decision and the substantive outcome of the case—whether or not it advances inequality) cannot be extracted computationally. As a result, we have hired dozens of law students to read and code the cases.

In this article, we outline the cost-effective approach to data collection we used in our project. We found that the same online questionnaire technologies used by survey researchers can, with minor modifications, be ideal for the purpose of coding data. In the same way that survey responses represent individual observations in a survey dataset, we "tricked" the online survey program Qualtrics into believing that cases are people. This approach is broadly useful. Using online survey technologies, scholars can set up coding forms that limit the ability of research assistants to enter nonstandard codings, collect metadata on research assistants' coding processes, and incorporate metadata that is easily scraped from judicial decisions.

**The Process**

There are a variety of online, easily available survey programs. Some of these programs, like Google Forms and SurveyMonkey, are free for simple applications. Others, like Qualtrics, are more expensive (though many universities have subscriptions available to faculty and students) and have additional features that can enhance the reliability and validity of data collection.

We implemented our coding form as a survey coding questionnaire in Qualtrics. As we developed our coding instrument, we realized that many of the features that survey researchers require for questionnaire design present opportunities for other researchers to enhance the reliability and validity of their data. For example:

- **Data Are Labeled.** Whereas spreadsheet-based coding systems often require coders to memorize a system of

numeric codings for each possible value of a variable as well as the correct column of a spreadsheet for each variable, the use of an online survey enables researchers to present respondents with a full prompt, including coding notes normally hidden in a codebook, for each question. Moreover, coders' answers are automatically saved into a labeled dataset that is simple to download and import into your statistical software of choice.

- **Case-Level Data Can be Piped In.** Using a Python script, we parsed the text files for each case for metadata about each case, such as the names of the parties, the court that decided the case, the date of the decision, the number of separate opinions in the case, and the name(s) of the dissenting and concurring opinion judges. The script output a .csv file where the unit of analysis was the case. We used the case citation and the name of the text file holding the opinion as the respondent's "first name" and "last name" to create unique identifiers. In the same way that surveys often "pipe" respondents' previous answers into future questions, we uploaded this spreadsheet to Qualtrics as a contact list and incorporated these data throughout the survey.

- **The Survey Can Branch.** Just as survey respondents might be directed to a page of additional questions based on their answer to an initial question, we presented coders with individual pages for each dissenting opinion keyed to the name of the dissenter.

- **Recoded Cases Are Saved.** Qualtrics can save the original coding for cases that are coded multiple times, enabling us to recover accidental miscodings—something that would never be possible if coders had entered their data directly into a spreadsheet.

- **Coders Are Checked For Consistency.** Just as survey respondents are often prompted to fill in missing questions or to verify seeming inconsistencies in their answers before advancing to the next page of the questionnaire, researchers can design their

- (continued from above) their coding questionnaire to check the consistency of coders' answers before they move to the next page. For example, one might prompt coders who coded the ideological direction of a dissenting opinion the same as the direction as the majority opinion to verify their coding is correct before advancing to the next page. In this way, researchers can build many of the validity checks they will perform on the data after the coding is finished into the initial coding form, prompting coders—who have the case fresh in their mind—to verify their answers, limiting the number of mistaken entries in their work.

- **Coders Can Be Watched.** Just as survey researchers often insert timers into their surveys to gauge whether respondents are answering questions too quickly or failing to pay attention to the questions, we inserted timers on each page of our coding form, enabling us to see how long each coder spent on each case and allowing us to query the coders about cases that took a particularly long time to code.

After we created the coding form and uploaded the case-level information to Qualtrics, we created a set of individual survey links, one for each case, in the same way that survey researchers create individual survey links for their respondents. Each link can only be taken once, such that each case is only coded one time. These are the links we distributed to our coders. The slides from SPSA, showing screenshots for each stage of the process, are available online:
http://mjnelson.org/surveycoding.pdf

## Conclusion

Ensuring the reliability and validity of the data they collect is a primary objective for all researchers. Yet, many existing approaches are either cost-prohibitive, rely on proprietary software, or enable coders to make innocent mistakes with devastating consequences. We have

outlined a methodology that uses online survey technology to create a flexible, easy-to-implement approach that is potentially of interest to researchers working on any number of research questions, both inside and outside of judicial politics.

## Upcoming Important Dates:

Southern Political Science Association Annual Meeting Submission Deadline: September 1

# Better Get to Know a Law and Courter

RYAN C. BLACK - MICHIGAN STATE UNIVERSITY

Welcome back to the second installment of Better Get to Know and Law and Courter. It seems like at least a few people read this, so we'll keep it around for a while. This issue's guests are Larry Baum and Alyx Mark, who generously agreed to answer my questions for this column. Questions, comments, or suggestions – don't hesitate to let me know (rcblack@msu.edu).  – RCB

## ALYX MARK

### NORTH CENTRAL COLLEGE

Alyx Mark is Assistant Professor of Political Science at North Central College (http://www.alyx-mark.com). She earned her Ph.D. in political science from the George Washington University in 2015.

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

I was fully convinced that I wanted to pursue genetic engineering in college, so I applied to a handful of schools with good programs in genetics. I applied to Southern Illinois University–Edwardsville on a whim – it was close to home, and I think it might have been free to apply. Thanks to a nice scholarship, I ended up there in the honor's college. I still thought I wanted to be a genetic engineer. In my first term on campus, the faculty advisor for our scholarship program (Brian Harward, who is now at Allegheny College) was giving a talk on presidential signing statements to our group. I hadn't intended to go, but he spotted me as he was leaving for the talk. He encouraged me to attend, and I did. I was totally puzzled about the constitutionality of signing statements and the role they played in the relationship between the president and Congress. I was hooked...and had a lot of questions. I found that political science was the place where I could go to investigate those questions, and I'm thankful to Brian and Ken Moffett for involving me in some of their research at that time, and encouraging me to apply to graduate school. After taking Judicial Politics with Paul Wahlbeck my second year at GW, I was smitten with the courts. I'm especially grateful to Paul, Brandon Bartels, John Sides, and Sarah Binder for encouraging me to pursue a dissertation project about the development of civil legal aid policy in the United States. Now, I am rounding out my third year at North Central College, a small liberal arts college outside of Chicago, and I have an office at the American Bar Foundation, where I am a visiting scholar. If you stand on the windowsill and press your cheek to the glass (which I've never done, of course), you could say I have a view of Lake Michigan from my ABF office.

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

An estate appraiser. Growing up, my parents appraised estates in their spare time and dragged me along to the historic homes of the St. Louis area, assessing the value of housefuls of treasures. When I moved to D.C. for graduate school, I started going to local estate sales and developed a knack for finding valuable objects that the estate sale companies overlooked. I think I lack the gene for bargain hunting fatigue – I can root around in a library of old books or a closet of vintage clothing for an embarrassing amount of time. Not to brag, but I found a book dedicated to Potter Stewart from Ernest Hemingway at the Justice's estate sale (and paid $2 for it).

## What are you working on now?

My research fits largely into two fields. The first is the socio-legal study of access to justice, or the causes and consequences of the lack of equal access to formal and informal methods of solving civil legal problems, and the second is the study of the separation of powers system. I am really excited about projects I am working on in both areas right now. In the former, I am in the process of conducting observations of municipal court judges (and doing interviews with these judges) to better understand how judges attempt to work within the confines of formal rules and procedures that are not created for their courtroom reality. In other words, when civil procedure and the rules of evidence are written for lawyers, by lawyers – how do you conduct business in a court that is largely populated by pro se parties? In the latter, Mike Zilis and I are in the process of expanding the scope of our inquiry about the nature of Court-curbing to consider the causes and consequences of threats to the judiciary by the executive. At this point, we've collected data on contemporary signing statements and press conferences, and every State of the Union address for evidence of these threats.

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

The Buffalo Creek Disaster by Gerald Stern. I don't know if this is particularly surprising, but maybe the reason it is on my shelf today would be a surprise. I teach an interdisciplinary seminar on the politics of natural disasters. I was asked to come up with a class on literally any topic my first year of teaching, and I thought that I could blend together elements of an American politics course with some of my own personal interests in access to justice through the lens of natural disasters. Stern's book is a great example of the evolution of a legal claim, and it touches on a lot of law and society topics that I care about. It helps that it is really well written, too.

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

It is hard to keep up with all of the good scholarship out there. A couple of things come to mind though – Morgan Hazelton, Rachael Hinkle and Jim Spriggs' "The Long and the Short of it: Influence of Briefs on Outcomes in the Roberts Court" in the Washington University Journal of Law and Policy; Deborah Beim's "Learning in the Judiciary Hierarchy" in JOP; Justin Wedeking and Mike Zilis' "Disagreeable Rhetoric and the Prospect of Public Opposition: Opinion Moderation on the US Supreme Court" in PRQ; and Doug Rice's "Issue Divisions and US Supreme Court Decision Making" in JOP. Also, Performing Judicial Authority by Australian legal scholars Sharyn Roach Anleu and Kathy Mack has been really useful for my new project on local court judges.

## What's your workspace setup like?

I have a huge monitor that I connect to my laptop in the office and a drawer full of granola bars, Japanese Kit Kats, and mint tea bags. The desk itself ebbs and flows in its level of disarray. It is usually a bad sign if it is neat and tidy – organizing is one of my main procrastination tactics.

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

I've been interviewing judges lately in both areas of my research, and I have found Evernote to be indispensable for organizing interview notes. I just started using Calendly this term to help me manage student appointments – I find it to be an easier way to set meetings than the eternal back and forth of emailing to find a good time. Also, Morgan Hazelton turned me on to LWIC for text analysis.

## What do you listen to while you work?

Usually nothing, because I'll start focusing on the music instead of what I am doing. Sometimes, I'll put on some bossa nova (Stan Getz, João and Astrud Gilberto, Tom Jobim, etc.) or bluegrass (Punch Brothers, Earl Scruggs, T Bone Burnett, Béla Fleck, etc.).

## Favorite research and teaching hacks?

I don't think this is a hack per se, but I am very fortunate to have a network of incredibly thoughtful coauthors who love to set goals and deadlines that we all actually follow through on.

I used to take failures in the classroom very personally, but I've come to recognize over time that experimentation is part of the game, and it is okay if not every new teaching idea works out. An idea that I've implemented in a few classes that I like very much is to assign a student to be the chief note taker for the day. The next day, the student presents a summary of what happened the day before in front of the class, and poses questions that the rest of the class then discusses. The students find this peer-to-peer learning exercise useful, but it is also valuable for me – I can detect gaps in understanding about what was covered the day before and address them.

That said, if anyone has good research or teaching hacks, please send them my way!

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

I read something as far from judicial politics as possible. I made the mistake of reading Jeffrey Toobin's The Run of His Life: The People vs. OJ Simpson and said to myself – this is too close to home for me, research interest-wise. But, reading that book inspired a seminar I teach from time to time on race and justice. I just finished Seveneves

by Neal Stephenson – if you're interested in a very detailed 800 pages about what would happen if the moon exploded, I highly recommend it.

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

I am an expert at travel hacking. My husband is the greatest beneficiary of this skill. In graduate school, I realized I could not match my desire to travel with my income. So, I started engaging in strategies to maximize frequent flyer miles and assorted other points currencies in order to be able to travel more regularly. My first "free" flight was DC – Rio de Janeiro in business class in 2010. We flew to Spain for our honeymoon in first class for free in 2015, Australia in business class in 2016 (thankfully, because redemption rates have skyrocketed since), and had free flights and all hotels in Japan over this past Thanksgiving break. I think the secret is to not be embarrassed to have an Excel spreadsheet where you manage your credit cards (and if you're wondering, I have excellent credit!). I am happy to offer points consultation services at an upcoming conference.

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

My biggest struggle is balancing time for scholarship, teaching, administrative work, and life. Sometimes life is the hardest thing to fit in, but the most important for sanity. I try to put life-things (a cooking class, a day trip to Michigan with my husband and dog, etc.) on the calendar well in advance so I can look forward to it – and commit myself to following through and actually doing it.

## What's the best advice you ever received?

I don't know if he has ever specifically delivered this piece of advice to me, but throughout my career I've sought to emulate the kindness and generosity that Paul Wahlbeck, my dissertation advisor, positively radiates.

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

I wouldn't say it is a great idea, but if anyone out there would like to figure out a systematized way to collect data on the behavior of municipal court judges (and then do it), I'd be very grateful. :-)

## Is there anything else you'd like to add that might be interesting to readers?

Please say hello if you're ever in Chicago!

## Fill in the blanks: I'd love to see ___ (junior person) and ____ (senior person) answer these same questions.

Monica Lineberger, Morgan Hazelton, Lauren McCarthy, and Susan Haire.

### LARRY BAUM

#### THE OHIO STATE UNIVERSITY

Larry Baum is Professor Emeritus of Political Science at the Ohio State University.

(https://polisci.osu.edu/people/baum.4). He earned his Ph.D. in political science from the University of Wisconsin in 1973.

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

As an undergraduate student at San Francisco State College, I majored in political science because I had grown up with an interest in politics. I enjoyed the classes and had great respect for the faculty members with whom I worked most closely, so I started thinking about becoming a political scientist. My interest strengthened enough that by the time I finished my third year in college, I had made that choice.

I had two criteria for choosing where to apply for graduate school: the departments should be ranked highly, and the university should not require Ph.D.s to have reading skills in two languages. (In 1968 the two-language criterion eliminated a substantial number of schools.) I chose to go to the University of Wisconsin, and the program served me very well. During my second year, a few weeks into Joel Grossman's class on the judicial process, it was clear to me that I should specialize in judicial politics. As I finished graduate school I had the great luck to get a position at Ohio State, which has been an excellent place to work. And for me, Columbus has become an excellent place to live. I'm now finishing my forty-fifth year there, still teaching and doing research a half dozen years after retirement.

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

When I was in high school, I had two ambitions. One was to be a radio disc jockey; the other was to be a writer of humor along the lines of James Thurber.  Of course, I ended up going in a different direction, which was a good result: over

the years radio stations have had less and less need for real disc jockeys, and my writing talent fell far short of what a successful humorist needs to have. But I do live in Thurber's home town.

## What are you working on now?

I'm collaborating with Neal Devins of the William & Mary law school on a book about how and why the Supreme Court became polarized along partisan lines. And I'm continuing a series of studies with Jim Brudney of the Fordham law school on the use of interpretive resources such as canons of construction and legislative history by the Supreme Court and the federal courts of appeals. Both projects have been great learning experiences for me. I'm working on a new edition of my Supreme Court text, which has been a very enjoyable experience over the years. Meanwhile I keep thinking about explanations of judicial behavior, drawing ideas from the innovative work that scholars have been doing on the subject.

## Books on your office shelves people may be surprised by?

Hans Noel's 2013 book, Political Ideologies and Political Parties in America. The book has taught me a great deal about the political process, and it has strengthened my understanding of the workings of ideology in the courts and elsewhere.

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

So much good work is being done by scholars in the field that it feels arbitrary for me to recommend a few examples (though later on, I'll mention one recent book that I like). I'm especially impressed by the recent scholarship that is highly creative in identifying new issues to address or developing new perspectives on long-standing issues.

## What's your workspace setup like?

I do most of my work in my department office, which has a pretty standard setup--nothing fancy but more than adequate. My desk and other surfaces in the office are sometimes fairly neat, sometimes highly cluttered, and most often somewhere in between the two. When the clutter becomes serious enough for me to attack, I always discover that some of the accumulated pieces of paper are about matters for which a deadline has passed. Fortunately, none of these oversights have done serious harm to my career.

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

Definitely my computer. It's true that manual typewriters are less susceptible to breakdowns, and their security features are far better. But those advantages are outweighed by all the jobs that computers can help with--making calculations, sending messages back and forth, that kind of thing. And it's a real convenience to erase typing mistakes without the use of Liquid Paper, though that's still the most important invention ever produced by the mother of a rock star.

## What do you listen to while you work?

I listen mostly to Eclectic 24, streamed by KCRW in Santa Monica. I like the music that the KCRW people choose, which (as the title suggests) ranges pretty widely. And they've introduced me to a lot of performers whose work I enjoy.

## Favorite research and teaching hacks?

It took me a long time to recognize the value of maintaining a detailed log of the steps that I take in an empirical research project, and I'm sure that many people in our field caught on long before I did. In any event, I've discovered that a good log is

enormously helpful in multiple ways over the life of a project.

When I talk with undergraduate students, I'm often reminded of the stress that course assignments create for many of them, and I do what I can to reduce that stress. I post memos with as much detail as possible about what an effective paper for an assignment would look like or what I think students should know about the material that a test will cover. On a less serious level, all of my tests conclude with a bonus question on some bit of trivia related to the class material. The correct answer gets no extra points but does earn a gold star at the top of the first page of the exam. There's something about the absurdity of a gold star in a college class that students enjoy, and I think that the bonus questions reduce stress a little.

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

There are lots of things, but the most effective is walking. A few years ago I adopted a colleague's habit of parking in a campus lot that is distant from my office, and the walk back there at the end of the work day is great for clearing my mind.

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

I can't think of anything. In fact, in my professional life I'm constantly in awe of people who have mastered elements of teaching and research that I find difficult. I'm grateful for all the good luck that has allowed me to have a very satisfying career without the skills that a lot of other people possess.

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

Because academic work is so open-ended, and because I like most of it so much, I find it difficult to limit the amount of time I spend on it. My

biggest step to address that problem was to retire, which I recognize is not a relevant option for the great majority of people who are reading this. Even retirement didn't completely solve the problem, since I continue to like my work so much, but it helped a fair amount.

## What's the best advice you ever received?

Someone--unfortunately, I can't remember who it was--once told me that there was no point in having an academic career unless you pick things to do that you enjoy. Over the course of my career, I've increasingly acted on that advice. In teaching courses, I emphasize topics and material that I find most interesting, and I'm pretty sure that's made me a better teacher. I do the same thing in my research, choosing projects that I find exciting rather than trying to figure out what's most likely to be publishable (which I'm not very good at figuring out anyway). This approach has led me into some projects that never worked out, but on the whole it's helped in my effort to do good work.

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

This doesn't count as a great idea, but I think that scholars could make an important contribution by doing more to probe the impact of the Supreme Court's decisions about access to the courts. For instance, how has the Court's expansive interpretation of the Federal Arbitration Act affected the balance of power between employers and employees and between businesses and consumers? Sarah Staszak's No Day in Court, an extraordinary book on access issues, discusses a wide range of questions that could be the subjects of further research.

## Is there anything else you'd like to add that might be interesting to readers?

I'm one of those people who have considerable

recognizing faces. After many years of causing students to feel bad when I didn't recognize them, I finally started telling them of my difficulty on the first day of class so that they would understand its effects. As a result, both my students and I feel considerably better than we did in the past. I would heartily recommend this step to anyone who has the same difficulty.

Fill in the blanks: I'd love to see ___ (junior person) and ____ (senior person) answer these same questions.

Deborah Beim or ~~Alyx Mark~~ (ed. note: done!); Kevin McGuire or Richard Pacelle.

## Law and Courts Remembers Joel Grossman

On June 2, 2018, Joel Barry Grossman, PhD, professor of Political Science at the University of Wisconsin–Madison and Johns Hopkins University, passed away. Joel was a renowned scholar of the Supreme Court, and a longtime fan of the New York Yankees and the Wisconsin Badgers. Beloved husband of 53 years of Mary H. Grossman (nee Hengstenberg); devoted father of Alison Elizabeth Grossman (Whit Morgan), Joanna Lynn Grossman (Grant Hayden), and Daniel Andrew Grossman (Shanna Wilson); loving brother of Gene (late William) Morgan and the late Ann (Karl) Mock; dear son of the late Heloise Grossman, and Joseph and Selma Grossman; cherished grandfather of Natalie Elizabeth Morgan, Luke Hayden Grossman, Jacob Whittelsey Morgan, Ben Hayden Grossman, and Milo Hayden Grossman; beloved grandson of the late Joseph Bercovici. Contributions in his memory may be sent to the ACLU or other charities that support civil liberties and the rights of those who are underrepresented in our legal system.

# Books to Watch For

DREW LANIER- UNIVERSITY OF CENTRAL FLORIDA

Christopher P. Banks (Kent State University) has published an edited collection, Controversies in American Federalism and Public Policy (Routledge ISBN 978-1-138-03664-2). "This interdisciplinary collection presents a scholarly treatment of how the constitutional politics of federalism affect governments and citizens, offering an accessible yet comprehensive analysis of the U.S. Supreme Court's federalism jurisprudence and its effect on the development of national and state policies in key areas of constitutional jurisprudence. The contributors address the impact that Supreme Court federalism precedents have in setting the parameters of national law and policies that the states are often bound to respect under constitutional law, including those that relate to the scope and application of gun rights, LGBT freedoms, health care administration, anti-terrorism initiatives, capital punishment, immigration and environmental regulation, the legalization of marijuana and voting rights. Uniting scholarship in law, political science, criminology, and public administration, the chapters study the themes, principles, and politics that traditionally have been at the center of federalism research across different academic disciplines. They look at the origins, nature and effect of dual and cooperative federalism, presidential powers and administrative regulation, state sovereignty and states' rights, judicial federalism and the advocacy of organized interests."
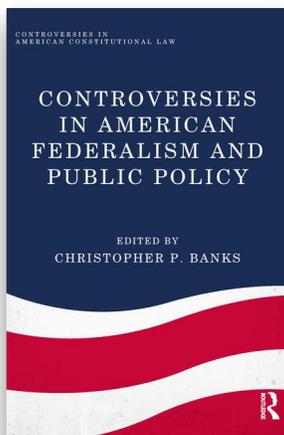
Kansas ISBN 978-0700624607). "When, in Obergefell v. Hodges, the US Supreme Court held that bans on same-sex marriage violate the Constitution, Christian conservative legal organizations (CCLOs) decried the ruling. Foreseeing an 'assault against Christians,' Liberty Counsel president Mat Staver declared, "We are entering a cultural civil war." Many would argue that a cultural war was already well underway; and yet, as this timely book makes clear, the stakes, the forces engaged, and the strategies employed have undergone profound changes in recent years. In Defending Faith, Bennett shows how the Christian legal movement (CLM) and its affiliated organizations arrived at this moment in time. He explains how CCLOs advocate for issues central to Christian conservatives, highlights the influence of religious liberty on the CLM's broader agenda, and reveals how the Christian Right has become accustomed to the courts as a field of battle in today's culture wars. On one level, a book about how the Christian Right mobilized and organized an effective presence on an unavoidable front in battles over social policy, the courtroom, Defending Faith is also a case study of interest groups pursuing common goals while maintaining unique identities. As different as these proliferating groups might be, they are alike in increasingly construing their efforts as a defense of religious freedom against hostile forces throughout American society—and thus as benefitting society as a whole rather than limiting the rights of certain groups. The first holistic, wide-angle picture of the Christian legal movement in the United States, Bennett's work tells the story of the growth of a powerful legal community and of the development of legal advocacy as a tool of social and political engagement.
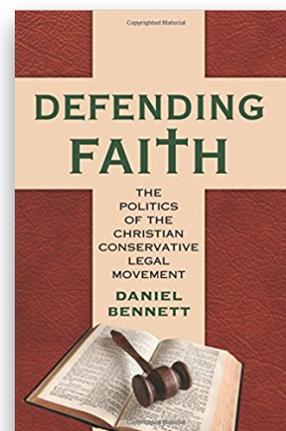
Daniel Bennett (John Brown University) has published Defending Faith: The Politics of the Christian Conservative Legal Movement (University Press of

Josephine Jarpa Dawuni (Howard University) and Hon. Judge Akua Kuenyehia (International Criminal Court) have co-edited International Courts and the African Woman Judge (Routledge ISBN 978-1-138-21514-6). A sequel to Bauer and Dawuni's pioneering study on gender and the judiciary in Africa, the work examines questions on gender diversity, representative benches, and international courts by focusing on women judges from the continent of Africa. Drawing from postcolonial feminism, feminist institutionalism, feminist legal theory, and legal narratives, this book provides fresh and detailed narratives of seven women judges that challenge existing discourse on gender diversity in international courts. It answers important questions about how the politics of judicial appointments, gender, geographic location, class, and professional capital combine to shape the lives of women judges who sit on international courts and argues the need to disaggregate gender diversity with a view to understanding intra-group differences. International Courts and the African Woman Judge will be of interest to a variety of audiences including governments, policy makers, civil society organizations, students of gender studies, and feminist activists interested in all questions of gender and judging."
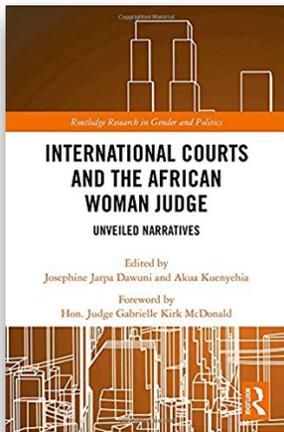


John Dinan (Wake Forest University) has authored State Constitutional Politics: Governing by Amendment in the American States (University of Chicago Press ISBN 978-0-226-53281-3). In the book, Dinan "analyzes the difference between the U.S. Constitution, which is difficult to amend, and the 50 state constitutions, which are easier to amend and have been rewritten and amended on a frequent basis. Although federal amendments play a modest role in

bringing about changes in governance, state constitutional amendments are a regular means of altering institutions, rights, and policies, and in a way that has created a distinctive form of constitutional politics in the states. One purpose of the book is to categorize and catalogue the ways that groups and officials have relied on state constitutional amendments to bring about changes in governance throughout American history. Another purpose is to assess the consequences of undertaking constitutional change through amendment processes (as in the states) rather than judicial and political processes (the dominant approach at the federal level), and to show that reliance on amendments might be deemed in key respects preferable to alternative approaches."
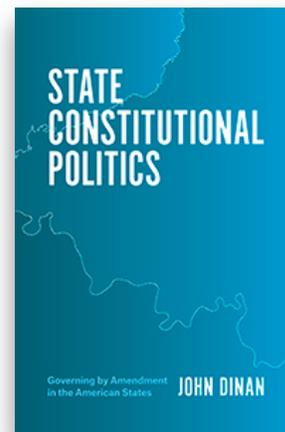


James L. Gibson (Washington University in St. Louis) and Michael J. Nelson (The Pennsylvania State University) have co-authored Black And Blue: African Americans And Legal Legitimacy (Oxford University Press ISBN forthcoming). "It is not hyperbole to proclaim that a crisis of legal legitimacy exists in the relationships of African Americans and the law and legal authorities and institutions that govern them. However, this legitimacy deficit has largely (but not exclusively) been documented through anecdotal evidence and a steady drumbeat of journalistic reports about Staten Island, Ferguson, Baltimore, and beyond, but not rigorous scientific research. Indeed, research on black public opinion in general is limited owing to the difficulty and expense of assembling representative samples of minorities. We suspect that the story of lagging legal legitimacy among African Americans is in fact quite a bit more nuanced than is often portrayed. In particular, black public opinion is unlikely to be uniform and homogeneous; black people most likely vary in their attitudes toward law and legal institutions.

Especially significant is variability in the experiences—personal and vicarious—black people have had with legal authorities (e.g., 'Stop and Frisk'), and the nature of individuals' attachment to blacks as a group (e.g., 'linked fate'). We posit that both experiences and in-group identities are commanding because they influence the ways in which black people process information, and in particular, the ways in which blacks react to the symbols of legal authority (e.g., judges' robes). Based on two nationally-representative samples of African Americans, this book ties together four dominant theories of public opinion: Legitimacy Theory, Social Identity Theory, theories of adulthood political socialization and learning through experience, and information processing theories, especially the Theory of Motivated Reasoning and theories of System 1 and System 2 information processing. Our findings reveal a gaping chasm in legal legitimacy between black and white Americans. More importantly, black people themselves differ in their legal legitimacy. Group identities and experiences with legal authorities play a crucial role in shaping whether and how black people extend legitimacy to the legal institutions that so much affect them. Our analyses in this book offer an all-inclusive account of how and why blacks differ in their willingness to ascribe legitimacy to legal institutions, as well as in their willingness to accept the policy decisions those institutions promulgate. In the end, we report one of the most comprehensive analyses produced to date of legal legitimacy within the black community in the U.S., with many surprising and counter-intuitive results."

**Robert J. Hume** (Fordham University) has published <u>Ethics and Accountability on the U.S. Supreme Court: An Analysis of Recusal Practices</u> (SUNY Press ISBN 978-1-438-46697-2). "Do US Supreme Court justices withdraw from cases when they are supposed to? What happens when the Court is down a member? In Ethics and Accountability on the US Supreme Court, Hume provides the first comprehensive examination of the causes and consequences of recusal behavior on the Supreme Court. Using original data, and with rich attention to historical detail including media commentary about recusals, he systematically analyzes the factors that influence Supreme Court recusal, a process which has so far been shrouded in secrecy. Hume reports that justices do not strictly follow the recusal guidelines set

by Congress, but at the same time they do not ignore these rules. Overall, justices are selective in their compliance with the recusal statute, balancing ethical considerations against other institutional and policy goals, such as the duty to sit. However, the book also concludes that the impact of recusals on policymaking is more limited than commentators have claimed, raising questions about whether ethics reform is really needed at this time."
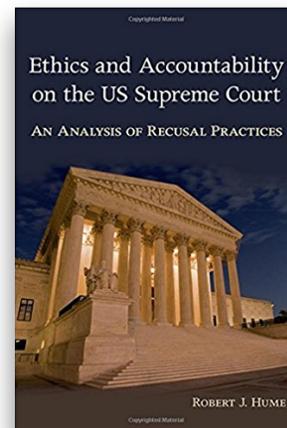


**Hume** also published <u>Judicial Behavior and Policymaking: An Introduction</u> (Rowman & Littlefield ISBN 978-1-4422-7603-1). The text "introduces students to the politics of judging, exploring why judges make the decisions they do, who has the power to influence judicial decision-making, and what the consequences of court decisions are for policymaking. Further, this text familiarizes students with the methods that professional political scientists use to conduct research about the courts, including the quantitative analysis of data. Designed for undergraduates and graduate students alike, this accessible and engaging text provides a thorough introduction to the world of judicial politics."
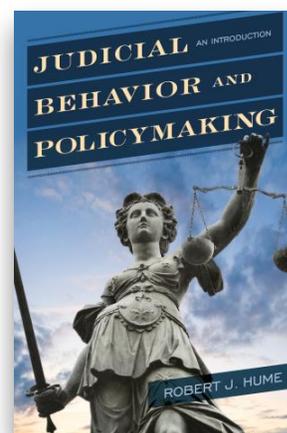
Herbert M. Kritzer (University of Minnesota) and Neil Vidmar (Duke University) have co-authored When Lawyers Screw Up: Improving Access to Justice for Legal Malpractice Victims (University Press of Kansas, ISBN 978-0-700-62585-7). "Unhappy clients bring thousands of legal malpractice claims every year, against mega law firms and solo practitioners, for simple errors or egregious misconduct, and for losses than can reach $100 million or more. This in an industry, legal services, generating nearly $300 billion a year in revenue and touching every facet of American society. Yet, scant if any scholarly attention has been paid to the questions and consequences of lawyers' professional liability. This book is the first to fully explore the mistakes lawyers sometimes make, the nature of these mistakes, the harm they do, and the significant disparities in outcomes for corporate and individual victims of lawyers' errors. A systematic, empirical study of legal malpractice, When Lawyers Screw Up employs both quantitative and qualitative methods to examine the frequency and nature of claims, the area of practice producing them, the amounts at stake, and the resolutions. The authors also use a range of data sources to study the frequency and outcomes of legal malpractice trials, whether bench or jury. Their comparison of legal malpractice cases involving the corporate and personal service sectors reveal the difficulties confronting claims coming from the personal sector—difficulties that often deny victims redress, even when they have suffered significant harm."
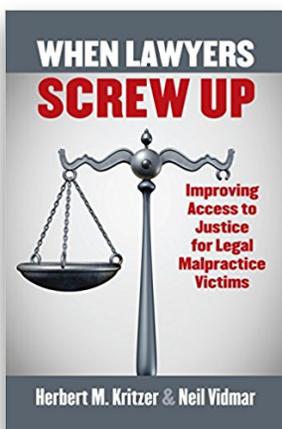
R. Shep Melnick (Boston College) has written The Transformation of Title IX: Regulating Gender Equality in Education (Brookings Institution ISBN 978-0-815-73222-8). "Few laws have had such far-reaching impact as Title IX of the Education Amendments of 1972. Intended to give girls and women greater access to sports programs and other courses of study in schools and colleges, the law has since been used by judges and agencies to expand a wide range of antidiscrimination policies—most recently the Obama administration's 2016 mandates on sexual harassment and transgender rights. In this comprehensive review of how Title IX has been implemented, Melnick analyzes how interpretations of 'equal educational opportunity' have changed over the years. In terms accessible to non-lawyers, the author examines how Title IX has become a central part of legal and political campaigns to correct gender stereotypes, not only in academic settings but in society at large. Title IX thus has become a major factor in America's culture wars—and almost certainly will remain so for years to come."
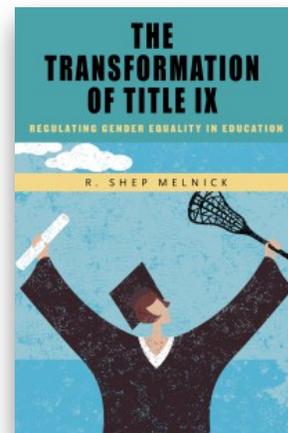
Jill Norgren (CUNY) has published Stories from Trailblazing Women Lawyers: Lives in the Law (New York University Press ISBN 978-1-479-86596-3). In this work, "Norgren curates the oral histories of one hundred extraordinary American women lawyers who changed the profession of law. Many of these stories are being told for the first time. As adults these women were on the front lines fighting for access to law schools and good legal careers. They challenged established rules and broke the law's glass ceiling. The author uses these interviews to describe the profound changes that began in the late 1960s, interweaving social and legal history with the women's individual experiences. In 1950, when many of the subjects of this book were children, the terms of engagement were clear: only a few women would be admitted each year to American law schools and after graduation their professional opportunities would never equal those open to similarly qualified men. Harvard Law School did not even begin to admit women until 1950. At many law schools, well into the

1970s, men told female students that they were taking a place that might be better used by a male student who would have a career, not babies. In 2005, the American Bar Association's Commission on Women in the Profession initiated a national oral history project named the Women Trailblazers in the Law initiative: One hundred outstanding senior women lawyers were asked to give their personal and professional histories in interviews conducted by younger colleagues. The interviews, made available to the author, permit these women to be written into history in their words, words that evoke pain as well as celebration, humor, and somber reflection. These are women attorneys who, in courtrooms, classrooms, government agencies, and NGOs have rattled the world with insistent and successful demands to reshape their profession and their society. They are women who brought nothing short of a revolution to the profession of law."
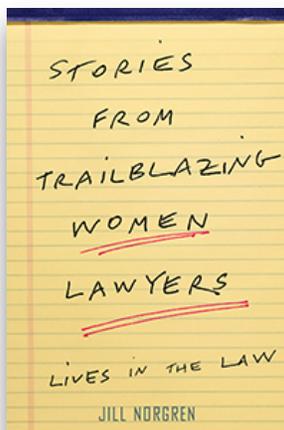
Jonathan F. Parent (Le Moyne College) has authored Reproductive Rights in New York and New Jersey Abortion, the Empire, and the Garden (Lexington Books ISBN 978-1-498-55553-1). "New York and New Jersey maintain almost identical laws dealing with abortion, but the process for developing those laws differed in each state. Courts were heavily involved in New Jersey, whereas most policy decisions came from elected officials in New York. In this book, Parent argues that these differences in the location of policy development in the two states are attributable to early changes that took place either in the courts or the state houses. These early changes set the narrative frame for how abortion was conceptualized in New York and New Jersey respectively, helping to lock in a legal or political outlook that kept development of abortion law and policy within its originating institution. Using the words of judges and justices from state and federal courts as well as lawmakers in

the two states over a 40-year period, the author demonstrates that how policy makers thought and wrote about abortion had a critically important impact on the extent to which courts or elected officials would ultimately create the laws that limited or expanded access to reproductive rights."
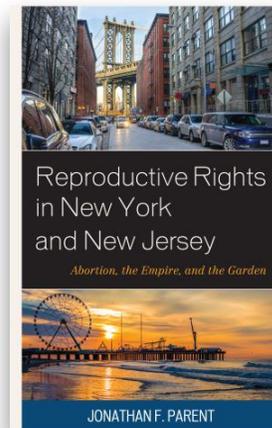
David Schultz (Hamline University) will soon publish an edited collection, Money in American Politics:  An Encyclopedia (ABC-CLIO 978-1-4408-5176-6). "The encyclopedia features one of the most comprehensive collection of essays assembled examining the role and impact money has in U.S. politics.  The article features many articles written by and of interest scholars to law and politics scholars, including major cases on campaign finance and money in judicial elections."
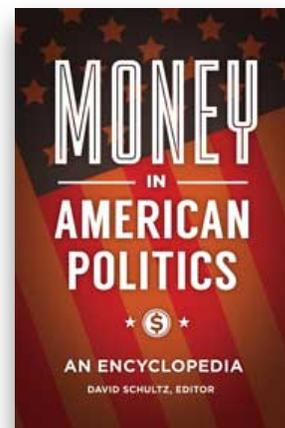
**Stephen L. Wasby** (University at Albany–SUNY) has published <u>Borrowed Judges: Visitors in the U.S. Courts of Appeals</u> (Quid Pro ISBN 978-1-610-27385-5). "In the first systematic examination of the role and impact of visiting judges, [Wasby] analyzes the U.S. courts of appeals' use of judges who visit from other circuits and in-circuit district judges, along with the courts' own senior judges.  It shows the considerable variation in the extent to which these judges are used and their role in writing the law of the circuit. It also shows whether their presence affects courts in rehearing cases en banc and whether Supreme Court grants review. The study draws on insightful interviews with judges, their statements both public and within the court, and empirical data [the author has gathered]."
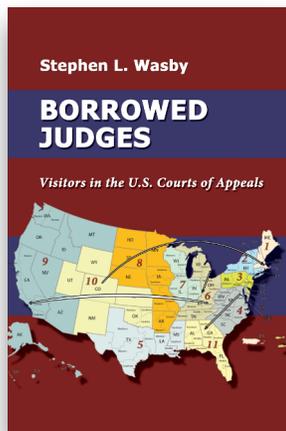
**Keith E. Whittington** (Princeton University) has published <u>Speak Freely: Why Universities Must Defend Free Speech</u> (Princeton University Press ISBN 978-0-691-18160-8). "Examining such hot-button issues as trigger warnings, safe spaces, hate speech, disruptive protests, speaker dis-invitations, the use of social media by faculty, and academic politics, the work describes the dangers of empowering campus censors to limit speech and enforce orthodoxy. It explains why free speech and civil discourse are at the heart of the university's mission of creating and nurturing an open and diverse community dedicated to learning. It shows why universities must make space for voices from both the left and right. And it points out how better understanding why the university lives or dies by free speech can help guide everyone—including students, faculty, administrators, and alumni—when faced with difficult challenges such as unpopular, hateful, or dangerous speech."

# INFORMATION FOR 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 publishes three editions a year (Fall, Summer, and Spring). Deadlines for submission of materials are: April 1 (Spring), July 1 (Summer), and November 1 (Fall). Contributions to Law and Courts should be sent to the editor:

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Editor – Law and Courts Newsletter

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## Articles, Notes, and Commentary

We will be glad to consider articles and notes concerning matters of interest to readers of Law and Courts. Research findings, teaching innovations, release of original data, or commentary on developments in the field are encouraged.

Footnote and reference style should follow that of the American Political Science Review. Please submit your manuscript electronically in MS Word (.docx) or compatible software and provide a "head shot" photo. In addition to bibliography and notes, a listing of website addresses cited in the article with the accompanying page number should be included.

## Symposia

Collections of related articles or notes are especially welcome. Please contact the Editor if you have ideas for symposia or if you are interested in editing a collection of common articles. Symposia submissions should follow the guidelines for other manuscripts.

## Announcements

Announcements and section news will be included in Law and Courts, as well as information regarding upcoming conferences. Organizers of panels are encouraged to inform the Editor so that papers and participants may be reported. Developments in the field such as fellowships, grants, and awards will be announced when possible. Finally, authors should notify BOOKS TO WATCH FOR EDITOR, Drew Lanier, of publication of manuscripts or works that are soon to be completed.

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