



# Law and Courts Newsletter

## Hello From Law and Courts Newsletter Editor

AMANDA BRYAN - LOYOLA UNIVERSITY CHICAGO

Hello everyone --

As you might notice, this issue is slightly different from what has become the new normal of the Law and Courts Newsletter. This issue was originally supposed to have content talking about the most recent WPSA and MPSA as well as a preview of APSA. Moreover, we would have seen our traditional Books to Watch For column and a new installment of our Better Get to Know a Law and Courter series of Interviews. However, given all that has been in flux this Spring with the Covid-19 pandemic, I wanted to ease as much as possible the burdens on my regular contributors. Instead, we have two excellent long-form contributions. The first, which was written shortly after the loss of David O'Brien late in 2018, explores what this giant in the field contributed to Law and Courts, and to his students. The second discusses the important work done at the SPSA surrounding inclusivity in our subfield. I hope you enjoy both of these important and interesting contributions. I should note that the section also elected new officers so be sure to check out the list of new section leaders on the last page of the newsletter. As always, if you have ideas for future contributions or if there is more of a certain type of content you would like to see, please let me know. All my best and I hope you and your families are staying well.

Amanda

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## A Tribute to David M O'Brien

MARK A. GRABER - UNIVERSITY OF MARYLAND

The man from Mr. Jefferson's University was the Jefferson of the public law field. Professor David O'Brien's scholarship ranged wide and deep. He wrote major textbooks on constitutional law and Supreme Court decision-making. He (with Barbara Craig) wrote a prize winning book on the constitutional politics of abortion and he penned another on religious freedom in Japan. He wrote important case studies for the Landmark Case series from the University Press of Kansas. Professor O'Brien had a particular fascination for judging and for judicial accounts of judging. If a public law scholar developed an interest in some constitutional phenomenon, whether that be a particular doctrine, case of country, they were likely to find David a fellow traveler.



David was as ecumenical a Jeffersonian in his methods as in his subject matter. He thought fights over whether judging was a species of law or a species of politics silly. His works recognized that constitutional law mattered. What the Constitution and past precedents said about standing, religious freedom and the First Amendment influenced what judges in the present would say about standing, religious freedom and the First Amendment. His casebooks and case studies attest to both his serious about doctrine and mastery of such legal matters. Professor O'Brien's judges were nevertheless human beings, not automatons that mechanically applied the law to consensual facts.

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## UPCOMING 2020 CONFERENCES:

American Political Science  
Association Annual Meeting\*\*:  
September 10-14  
San Francisco, CA

He was particularly interested in the interaction among the judges. While most constitutional law texts discuss theory, a few do history and a few do the grand politics underlying constitutional decisions, O'Brien's *Constitutional Law* provided remarkable insights on the particular negotiations that went into constitutional opinion writing. Judges were trying to get extra votes. Brennan was searching for the magical fifth vote. How cases turned out was not dictated by existing law or preexisting political convictions, but was in part a function of nine human beings played according to various formal and informal human rules. The personal, in David O'Brien's work, was political.

David was a Jeffersonian scholar. He wrote on what he thought was interesting and important and not on what he thought might be trendy. When I asked about his interest in Japan, he pointed to his longstanding fascination with the country and certain features of Japanese constitutional politics he thought worthy of note. He was unconcerned that comparative constitutional politics was becoming a hot subject of inquiry and had little interest in participating in activities that might foster one kind of public law scholarship rather than another. He could be prickly at conferences as more than a few of us could attest. The prickliness, however, was always directed at scholarship rather than at personal vendettas. I recall David being quite blunt about a paper's merits, but never claiming that one particular approach was superior to another or the author would have gotten things right if only he had paid closer attention to Professor O'Brien's work. He was dedicating to advancing the commitments of our field rather than improving his already stellar reputation.

The Jefferson of the public law field helped build a Jeffersonian program in public law at Mr. Jefferson's University. Professor O'Brien, with Henry Abraham and others, turned out numerous graduate students, several of whom are represented on these pages, who have furthered advanced public law scholarship. What I think unites these scholars is less any methodological commitment than David's commitment to taking law and politics seriously and to insisting that they are others uphold rigorous scholarly standards. Given how few major universities are producing public law scholars, Professor O'Brien, his colleagues at Virginia, and at a few other universities deserve great credit for keeping our field alive and vibrant. The work of those of learned from David at Virginia and those of us who learned much about public law from the work David did at Virginia are his lasting legacy to our field, to Mr. Jefferson's university and to scholarship.

### CHRIS BANKS KENT STATE UNIVERSITY

Generosity of time, patience, support, and a quick wit with an impish grin is what I will always remember about David. All of those characteristics speak of being a valuable mentor and role model, which David was to countless students. From our first telephone conversation in 1989 to our last email in November 2018, David's impact on my professional life was only second to my father, who passed away at the age of 94 a couple of years ago after retiring from the law practice we shared until the time I went to graduate school at UVA.



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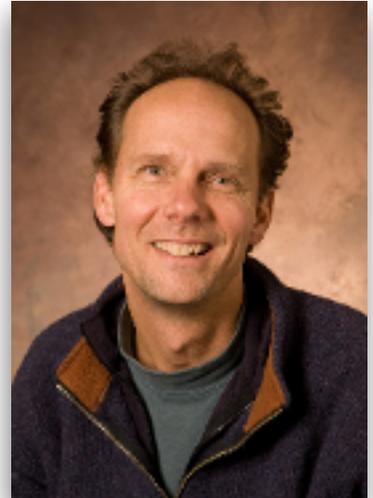
I did not know much about David or his esteemed colleague, Henry Abraham, when I first spoke to David from my law office. He was grad coordinator and he quickly told me about his seminal work, *Storm Center* (which I admitted to him that I never heard of), and the value of getting a doctorate. In my first semester, I took his Jurisprudence course and the paper I wrote eventually became my first publication, which only was possible because of the extensive edits David made. I learned then, and continued to discover as we remained co-authors on our *Judicial Process* textbook, that David's greatest skill was writing, editing, and giving the type of extensive feedback that can only be described as brutal and unforgiving, but also quite accurate and pragmatically useful. All of his writings are testaments on how to write well and intelligently engage an audience. He was also very busy, but he always responded quickly and was quite selfless in the amount of time he spent with students. I will always fondly recall the email exchanges I had with him on my first now antiquated Mac during grad school; our lunches at the corner; the parties he threw at his house for graduate students; and the class trips we took to the Supreme Court to visit the justices he knew. And the man was brilliant in his knowledge about the Supreme Court and the politics of law and courts. Just being around him made everybody better.

There is no doubt that David told it like it is and I respected him tremendously for that kind of mentorship. I suspect some might have found him a bit too honest, but if so that is their loss. David had the rare ability to command respect and share his insights without being judgmental or pushing his view onto others. He quite simply, and directly, told you what you needed to know so you could become a better scholar. I can only hope to be half the mentor he was to me to my own students. He will be sorely missed but never forgotten.

## JIM STAAB

UNIVERSITY OF CENTRAL MISSOURI

The discipline has lost a towering figure. David M. O'Brien was the first scholar to impress upon me the inherently political nature of American courts, and that came after three years of law school! *Storm Center* was a classic when it was first published in 1986



and remains essential reading for any student of public law. For the past twenty years, I have used his two-volume casebook--*Constitutional Law and Politics: Struggles for Power and Governmental Accountability* and *Constitutional Law and Politics: Civil Rights and Civil Liberties*—in my undergraduate courses. Now in its 10th edition, it is one of the finest casebooks available in the country. It is engagingly written, thoughtfully organized, and uniquely weaves together both history and politics to provide an essential framework for analyzing major constitutional controversies. David's many other books have received critical acclaim. His most recent book--*Justice Robert H. Jackson's Unpublished Opinion in Brown v. Board: Conflict, Compromise and Constitutional Interpretation*—gives a behind-the-scenes look at Justice Jackson's unpublished opinion in *Brown* and points out how unanimity was not inevitable in that landmark decision, but rather required compromise among the justices over constitutional interpretation and political philosophy.

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David was one of my teachers at the University of Virginia in the 1990s, and his classes were highly sought after. As a teacher, he combined incisive analysis of court cases with a great sense of humor. During my graduate studies at UVA, I was fortunate to serve as his GA for his Civil Rights and Liberties course. David's lectures were always engaging and he included a moot court exercise. In this assignment, students role-play either an appellate attorney or a Supreme Court justice in a case presently pending before the Supreme Court. The exercise puts the students in the proverbial "hot seat" of arguing or deciding an often-controversial legal, moral, and/or political issue on the Supreme Court's docket. They are a classic example of high impact learning, which I have been able to use in my own law-related courses. David also was at the forefront of the subfield's movement toward a comparative approach to constitutional law. As the recipient of numerous Fulbright scholarships, he taught constitutional law in various countries and published several important books, including *To Dream of Dreams: Religious Freedom and Constitutional Politics in Postwar Japan* (with Yasuo Ohkoshi), and the co-edited volume *Judicial Independence in the Age of Democracy: Critical Perspectives from Around the World* (with Peter Russell). Notably, David was also willing to share his expertise at critical moments in time. I particularly appreciated when he came to my university to give the keynote address for a conference titled "Counter-Terrorism and Civil Liberties" after 9/11. In short, David was a trailblazer. He was an innovative teacher and a prolific scholar. During his 40-year academic career, he published 23 books, 109 articles, 28 book reviews, and 54 newspaper articles! He will be sorely missed.

## JOHN BLAKEMAN

UNIVERSITY OF WISCONSIN  
STEVENS POINT

David's teaching deserves mention. As a graduate student at Virginia I was impressed by David's energy and devotion to all of his students--undergraduates and graduates. He

maintained an active research and publication agenda and remained true to Virginia's emphasis on undergraduate education. His sections on constitutional law consistently enrolled 100+ students every semester, and it was only in the mid-1990s that he started to use teaching assistants because enrollment had grown so much. I was impressed by his desire and willingness to interact with undergraduate students from across the university, and it was his approach to teaching that convinced me to focus my career efforts and goals towards undergraduate teaching as well. That said, David was a wonderful mentor to me and to many others. He was instrumental in helping me secure a tenure-track position right out of graduate school.

David's emphasis on excellence in teaching affected my career choices to a considerable extent. His graduate students have chosen a range of career pathways, from small public comprehensives or private religious colleges to larger regional institutions and R1 universities.



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David did not seek to shoe-horn his students into one type of researcher or academic; he encouraged diversity in the research topics and methods that we chose for our dissertations. As for his undergraduate students, I can only imagine how many thousands of them at Virginia, and elsewhere, were in some way affected by his teaching and passion for constitutional law and the judicial process.

## STEVEN BROWN

AUBURN UNIVERSITY

David M. O'Brien was absent from the first week of his classes when I arrived at the University of Virginia in the fall of 1993 because he was in Japan conducting research for *To Dream of Dreams*, his book on religious freedom and politics in that country. When he returned, we began to talk about both his trip and about the two years I spent in Japan. With that common interest, we immediately hit it off. A year later, I was assigned to be one of his graduate teaching assistants in his undergraduate constitutional law classes.



There I witnessed his wonderful teaching style where detailed knowledge, ready wit, and biting sarcasm were intermixed in such a way as to keep the attention of everyone – be they in a small seminar room or in a large

auditorium. His moot court exercise on a case then pending before the Supreme Court created a tremendous amount of stress as did his midterm and final exams, but when the class was over, the students knew they had done something significant. He had high expectations of his undergraduate students and wanted them to succeed. More often than not, they came through for him.

He demanded much of his graduate students as well. He was an excellent researcher with an accessible writing style and a knack for simplifying complex constitutional issues without sacrificing accuracy, perhaps best evidenced by his award-winning *Storm Center: The Supreme Court in American Politics*. He expected his graduate students to be able to figure out the answers to their research questions, properly cite supporting material, and convey it clearly in their writing. He nudged and guided me to complete my dissertation, making sure that the final product was worthy of having his name on it as my committee chair.

My job at Auburn University resulted from a notice he happened to see about a one-year visiting position there and his encouragement to apply. Twenty-one years later, I can look back and see that my research interests, writing style, teaching abilities, the textbooks I use, and even the job itself are all the result of David O'Brien. When he passed away in December 2018, I lost the single biggest influence of my adult life. He was a genuine scholar, dedicated teacher, wonderful mentor, and dear friend. He is sorely missed.

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## STEVEN TAUBER

UNIVERSITY OF SOUTH FLORIDA

When David O'Brien passed away last December, most people reflected on his numerous scholarly works, especially his classic book *Storm Center*. I too could not help but think about his contributions to the public law field. However, my thoughts focused more on David as a teacher and mentor.



My first conversation with David was in the spring of 1990 when he called to tell me that the University of Virginia was offering me a fellowship and assistantship to attend its graduate program. I read *Storm Center* as an undergraduate at UC San Diego, and I was interested in the prospect of going to a prestigious university in an interesting area. David seemed extremely personable, and we shared a connection because we both grew up in Southern California. I was weighing several offers at the time, but David had no trouble convincing me to attend UVA.

I did not know what to expect from graduate school. I had only declared a political science major at the end of my junior year of undergraduate – after changing my major several times. Still, I was confident that I knew how to write thoughtful papers, but that confidence was quickly shattered after David graded my first assignment in his Jurisprudence course. I initially noticed the copious amount of green writing on my paper – I would later

discover that David was notorious for his green marker. I was annoyed after reading the highly critical feedback, but after I discussed the paper with David, I understood why he wrote those comments. During the meeting David was brutally honest about the shallowness of my thinking as well as the inelegance and lack of clarity in my writing. I was extremely nervous going into that meeting, but when speaking with David, his wry sense of humor put me at ease, and my subsequent work improved substantially. I certainly learned quite a bit during that first class with David, and I continued to learn from him throughout my time at UVA, especially because David directed my dissertation. His advice ranged from playing devil's advocate to suggesting that I read more Hemmingway to develop a clearer writing style. He also continued to provide honest and extremely constructive feedback on drafts of my chapters – usually with the dreaded green marker. By the time I graduated and started my academic career, I realized how much I learned from David's stark, albeit humorous, feedback. Moreover, I know that he also provided the same valuable mentorship to my graduate school colleagues.

Although it has been almost 25 years since I received my PhD, David continues to influence my scholarship and teaching. I especially try to couple honest criticism with good humor when mentoring graduate students. I wish that I had stayed in more regular contact with David over the years. Still, I will miss him, and I am hopeful that he knew how much he influenced so many students over the years.

# INCLUSIVITY IN LAW AND COURTS

REBECCA A. REID, UNIVERSITY OF TEXAS AT EL PASO

PAUL M. COLLINS, JR., UNIVERSITY OF  
MASSACHUSETTS AMHERST

TODD A. CURRY, UNIVERSITY OF TEXAS AT EL PASO

REBECCA D. GILL, UNIVERSITY OF NEVADA LAS  
VEGAS

MICHAEL K. ROMANO, SHENANDOAH UNIVERSITY



Recently, the discipline of political science has seen increased attention to problematic behaviors from academics as well as perpetuated by the discipline writ large. As such, professional associations and subsections have come under greater scrutiny to address what is seen as widespread hostility toward particular groups of scholars by a small, often exclusive sect of scholars in various subfields. As this attention continues, one question the various subfield organizations have begun asking themselves is how we can better create more inclusive, robust spaces for dialogue in the profession.

At the 2020 meeting of the Southern Political Science Association, a roundtable on “Problems and Promises: Confronting Questions of Inclusivity in Judicial Politics” was hosted by Michael Fix, with Paul M. Collins, Jr., Rebecca D. Gill, Rebecca A. Reid, Michael K. Romano, and Todd A. Curry presenting. This report summarizes the presentations and discussion in an effort to promote transparency and keep the dialogue open to members of the law and courts community who could not attend the panel. Three main issues were discussed, each presented below. We thank Bob Howard, Jeff Gill, the SPSA leadership team, as well as the panelists and audience to the roundtable for their time and attention to this issue within the subfield.

## **The Law and Courts Listserv**

The Law and Courts Listserv was created 1996 to “promote discussion and the exchange of information among scholars interested in the study of law and courts.” The Listserv has since grown to have more than 750 subscribers. At its best, the Listserv enables members of the law and courts community to engage in scholarly debates, keeping up to date on developments in the field, offer research and teaching assistance, discuss current or historical events, and distribute announcement on jobs, awards, conferences, and the like.

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Yet, the Listserv also was known to have issues involving personal attacks, overuse by a small segment of posters, posting information better relayed in private, and “shameless” self-promotion. Indeed, it appeared problematic that there was no code of conduct for users of the Listserv. Hence, a survey was conducted in Summer 2019 to find ways to improve the Listserv. The survey was sent to all members of the Law and Courts Section of the American Political Science Association and to all Listserv subscribers. The response rate was 39%, and the results are revealing and disturbing.

While 46% of Listserv subscribers found the Listserv useful, **nearly a third** of subscribers found the Listserv not useful. Respondents found the Listserv most useful for announcements on job opportunities, conferences, and career opportunities. Furthermore, respondents overwhelmingly supported instituting a code of conduct for the Listserv. More disturbing, 28% of Listserv subscribers indicated that they felt intimidated to post to the Listserv and/or have experienced private negative interactions after posting to the Listserv. Indeed, **nearly 40%** of women and non-binary respondents indicated they felt intimidated to post and/or had negative experiences in private following posting. In the open-ended responses, several courageous respondents provided dozens of troubling negative interactions after posting to the Listserv and/or explained why they felt intimidated to post. The most common experience was being targeted for harassment after posting on the Listserv. In other words, **harassers were using the Listserv to find targets.**

Based upon the results of this survey and other information, in September of 2019, Law and Courts section leadership voted to end the current format of the Listserv, which is now in the process of transitioning to a fully-moderated “announcements only” listserv. The new listserv will be moderated by Todd A. Curry, Michael Fix, Gbemende Johnson, and Michael K. Romano

In addition to the survey, ongoing research by Todd A. Curry, Rebecca D. Gill, Rebecca A. Reid, and Michael K. Romano seeks to evaluate the function and impact of the Listserv. Other professional academic listservs have been subject to controversy, particularly pertaining to gender-related harassment, and promoting hostile professional environments (Benson 2012; Nguyen et al. 2017, 157; Barjak 2006, 1359). Nguyen et al. 2017, for example, point to three key themes that led to the demise of the PLANET listserv, which was used by scholars in planning, geography, and connected fields: “(1) a generational divide in communication, (2) how power and privilege work to silence voices, and (3) differing perspectives on how the field needs to be inclusive and welcoming to future generations” (158). The experience of Law and Courts shares many key characteristics that lead to the end of PLANET. As the Section works to chart a path forward, it is critical that we understand how power and privilege may have contributed to the sense that the Section as a whole is unwelcoming to minoritized groups.

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To do that, these authors build upon the foundation of the Section's 2019 survey of section members by analyzing the membership and posting patterns of the Listserv. In particular, the study examines how participants in the Law and Courts Listserv utilized the outlet, and how participants' language was molded to create explicit, exclusive groups. To perform their analysis, they collected data on all posts transmitted through the listserv from November 2015 to the Listserv's final months in October 2019. Messages were transmitted by 323 unique individuals, with an average monthly transmission rate of 102 messages. The number of transmissions ranges from a minimum of 28 messages in February 2018 to 305 messages in September of 2019. They focused on several measures of language sentiment which explore the emotional tenor of words and language choice. They construct these measures using the Linguistic Inquiry and Word Count (LIWC) dictionaries developed by Pennebaker et al. (2015), which provides summary statistics and percentage breakdowns for each of the measures discussed for each post in the data. These data are thus used to detect themes, sentiments expressed, and other characteristics through the use of computer-assisted text analysis, and matches the themes and other characteristics to publicly available information about the subscriber, such as gender and institutional affiliation (e.g., public versus private; PhD granting versus MA or BA only).

In the collected data, white males made up 63.35% of the population of the Listserv. **Women made up approximately 30%** of the total Listserv population, whereas **non-white participants made up only 8.38%** of the total population. Men dominated the use of the Listserv as well, with **66.53% of all messages being transmitted from male participants**. Unsurprisingly, given the dominance of white academics in the Law and Courts generally (Reid and Curry 2019), **white participants transmitted 86.63% of all posts** as well. Preliminary results examining gender dynamics in messages also show that women were much more likely to reflect anxiety in their posts, while men were more likely to write posts that contained words corresponding with anger. Results also indicate that women participants conditioned their language to account for the hostility of the Listserv's environment by tailoring their language to focus on leadership and clout. More information is available from the authors upon request.

### **Being "Reviewer #2"**

A related issue within the public law field is the undermining of research by members of our own intellectual community in the peer-review process. In particular, roundtable participants and audience members discussed the reality that some law and courts scholars prejudge the scholarship they are asked to review, are dogmatic about particular theoretical and/or methodological approaches, undermine publication by stating that the manuscript is not "important enough" or a "good fit" for a journal, and are afraid of research that challenges conventional wisdom or looks at new phenomena. Beyond these issues, some reviewers are unhelpful with their criticism and feedback and others are simply cruel.

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These issues are not merely personality or social issues; rather, these trends directly affect section membership and retention, publication rates, the relevance of our field outside of academia, and how the rest of academia views our section and scholarship. As indicated by the survey, scholars of color, women, non-binary, and other non-traditional scholars are disproportionately subjected to harassment. Similarly, junior scholars and scholars focusing on non-traditional research topics/areas are frequently targeted for this harassment. This means that these scholars are unlikely to become or stay members of the Law and Courts section, which contributes to the problem of lack of representation in the section identified in Reid and Curry (2019). Furthermore, these outcasted areas of research and methodological approaches narrow the relevance of Law and Courts scholarship, which burgeons the public image that our section is only for scholars who study the U.S. Supreme Court. This image remains, despite recent improvements made by journal editors and editorial teams to publish more diverse scholarship, especially involving comparative courts, state judiciaries, immigration law, and gender and race. This image problem again pushes scholars who study Law and Courts to find themselves in more “appropriate” or welcoming fields, such as criminal justice and comparative politics. With even a brief look at our flagship journal, the *Journal of Law and Courts*, the problem becomes manifest. The most recent issue, Fall 2019, features six excellent articles by both well-established and emerging scholars in the section. However, the uniform focus of these articles could not be more telling. Each article focuses on judges in the United States and either how they make decisions or the effect these decisions. In the entirety of 2019, the *Journal of Law and Courts* published one article that focused on a court external to the United States, and not a single article on legal issues involving race, gender, immigration, or for that matter, any substantive policy area. Indeed, the only article which focuses on the systemic effect which occurred because of a change in legal policy examined how the decision in *Republican Part of Minnesota v. White* effected judicial elections and judicial campaigns (Vande Kamp 2019). None of this is meant to attack the content of this work, which is stellar. Of course, the Law and Courts Section should study judges. But, most of the work that focuses on Law and Courts, broadly defined, is being done by individuals who are not members of our field. As a result, their membership and intellectual contributions are missing from the Law and Courts section.

Second, these harsh reviews limit publication opportunities for Law and Courts scholarship by ensuring that top journals do not publish work in Law and Courts. This makes tenure and promotion more difficult to achieve (which again affects our ability to retain scholars), and undermines the quality and relevance of our scholarship to people outside of Law and Courts. If the top journals rarely publish law and courts scholarship, this tells the rest of political science that we are unnecessary or do not produce important, quality research. But, this is not the case. Rather, we hurt ourselves as a field by undermining each other’s work. Of course, this is not to say that every manuscript is deserving of publication or that we cannot provide constructive criticism to the articles we review.

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It does, however, mean that we need to be constructive and helpful with our reviews and avoid taking our individual biases and preferences out on otherwise worthwhile research. And it means that we need to stop telling journal editors that Law and Courts scholarship is not “important enough” for publication in top journals.

### **Individual and Institutional Reforms**

Finally, we need **both individual and institutional reforms** to promote meaningful inclusion and diversification within our Section. As it stands, our Section has largely relied upon individual motivation for self-improvement and university-mandated workshops, training, and modules for equal opportunity compliance. Effective changes in our section require both individual efforts and institutional efforts to support and incentive those efforts.

Individual efforts require personal time and energy requirements to become educated in areas usually outside of their research areas and learn to implement this new awareness in teaching and research settings (amongst others). Our discipline does not provide incentives to accomplish these endeavors as they are often viewed as taking time away from “real research.” This means that only those who prioritize and have the opportunity to take on this additional, uncredited burden can do so. Furthermore, people who are perceived to have a vested interest in these policies (i.e., non-traditional scholars) are usually discredited for their efforts while white, male scholars are often more generously credited for these “benevolent” and “magnanimous” efforts. Obviously, all scholars should gain credit for these efforts. Furthermore, it falls upon these self-motivated scholars to educate their colleagues and deal with that disproportionate “invisible labor” (June 2015)—all of which is uncredited.

Institutional reforms can help resolve some of these disproportionate burdens and solve coordination and information problems that hinder consistent, effective changes in the Law and Courts community. For example, the creation of a permanent diversity and inclusion committee can help take on Section monitoring of progress through the collection of data and offering collaboration with analyses. Rather than being punitive, such a committee could help provide a resource for scholars by bringing together reports on best practices and could offer scripts and templates that can be tailored to individuals and settings to aid in dealing with common problems. For example, such a committee could offer an editable rubric for search committees that can be tailored depending upon university, college, department, and search committee need. Such a rubric could be a resource to aid in equitable and fair evaluation of candidates that complies with equal opportunity legislation, as well as taking into account systemic inequalities in our field and society. It could also offer best practices or general scripts for how to address potential bias in search committee discussions and evaluations.

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The goal would not to dictate behavior, rather to coordinate efforts so that individual scholars and departments do not have to each reinvent the wheel because none of us were trained in these areas. This means that scholars have resources and support at their disposal so that they can better identify and handle potentially problematic situations in effective, collegial ways and still maintain an active research agenda.

Relatedly, such a committee could take on or contribute to research in broadening the public image of Law and Courts. Since the impression remains that the Law and Courts Section prioritizes U.S. Supreme Court scholarship, the committee could aid or support scholars examining whether public law journals are publishing narrowly across certain topics or university/author networks—or if the public image really is just an image problem retained from past impressions. Revisions or additions to Law and Courts branding could enable the committee, Section leadership, and the Section as a whole to promote and disseminate non-traditional or innovative research. Special editions, symposia, conferences-within-conferences, and other opportunities abound to highlight this scholarship.

With regard to the dreaded “Reviewer #2”, one need that was identified in the panel is the transfer of institutional knowledge among journal editors with regard to reviewers to avoid (as well as reviewers that are reliable and punctual). One possibility to address this need is for each journal/journal editors or editorial teams to institute brief outgoing reports that highlight the direction the journal has taken (maybe descriptive statistics on what was published, etc.) and identify any potentially problematic reviewers. This would allow new editors and editorial teams to have a sense of direction and gain otherwise private information they can use as they take over the journal.

Similarly, journal editors/teams could approach a problematic “Reviewer #2” by offering the reviewer feedback that their review had an aggressive tone, was unclear, and/or was not helpful in providing the reviewer the opportunity to revise review within a specified timeline. The benefit of such an approach is that it provides information to the reviewer that the review was not appropriate and gives them a chance to revise it. This will help reviewers who may not have received adequate mentorship, guidance, or training and enable them to improve their reviews and communication. Alternatively, if the reviewer chooses not to revise it, then it could be up to editor’s discretion to omit the review, in full or in part. Of course, this could also mean potentially longer timelines for authors to get a journal decision and feedback. Nonetheless, such an approach would not conflict with issues of academic freedom or free speech since the substantive content of feedback remains unchanged and unchallenged; it is simply the tone of the review that is asked to be revised.

Finally, it is important that institutional and individual reforms are understood as an expansion of the Law and Courts community—one that is more representative of the Section in actuality—not a shift in direction.

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Having a permanent diversity and inclusion committee is not, in and of itself, a solution. And such a committee cannot and should not take over all reforms that can otherwise be implemented and reinforced by other institutions and individual actors. Such a committee should not be punitive, but rather an advocate for faculty that promotes collaboration and dialogue across our Section. That is, the Committee should not preclude scholarship and ideas from individual members but can provide additional resources and institutional support to advance these endeavors. Rather, it can aid in our Section's efforts to diversify and include all scholars.

Importantly, this committee and all reforms must also include white (and male) scholars. While white (male) scholars may feel hesitant to speak during diversity-related events and may feel the need to be apologetic for their identity, there is no need. The purposes of these reforms are not to exclude, replace, or shift the power from one group to another. White (male) scholars need to know that they are valued, contributing members who have valuable experiences and perspectives. They need to feel and see themselves included on such a committee and in the Section. Diversity is not designed to replace white people or their influence, merely intended to also include other people at the table. White scholars need to see themselves as equally contributing to our Section, rather than feeling pushed out, punished, or silenced. Diversity does not exclude anyone, and all scholars should be supported to share their voice. Diversity does not mean feeling guilty for ancestral heritage. Diversity and inclusion mean a better future for everyone, where we all do, in fact, work together and support each other.

# 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:

Amanda Bryan

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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