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# Circuit breaker

## DECIPHERING COURTS OF APPEALS DECISIONS USING THE U.S. COURTS OF APPEALS DATA BASE

The Data Base presents tremendous opportunities for the empirical evaluation of issues of substantive law, court administration, the behavior of litigants, and the behavior of judges.

BY TRACEY E. GEORGE  
AND REGINALD S. SHEEHAN

**I**s one circuit significantly more conservative or liberal than the others? Do circuit courts consistently avoid deciding the substance of certain appeals by concluding that the plaintiffs lack standing? Have state governments been more

tutions and the general public? The United States Courts of Appeals Data Base, an extensive data set of courts of appeals decisions, can address these and other questions about the circuit courts. This article describes the background, scope, and content of the database, explains how to use it, and illustrates applications to research questions of interest to the diverse law and social science community interested in courts of appeals.

In 1986, political scientist Donald Songer proposed the creation of a database of U.S. courts of appeals decisions modeled after the database of Supreme Court decisions funded and overseen by the National Science Foundation's Law and Social Science Program (NSF). Songer argued that the database would be indispensable

to the systematic study of the courts of appeals, an institution previously neglected by scholars in part due to the difficulty of collecting sufficient data for the empirical examination of its decisions and processes. The NSF agreed, awarding a grant to create the United States Courts of Appeals Data Base.

Songer, serving as the principal investigator, and an appointed Board of Overseers comprised of distinguished political scientists, sociologists, and legal scholars, fixed the time period, sample size, and variables covered in the database. The Board determined that the database should be longitudinal, drawing on cases decided from 1925 to 1996. Although the Evarts Act created the circuit courts of appeals in 1891, the

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successful than other parties when they appeal adverse district court rulings? Do appeals courts act in a majoritarian or countermajoritarian manner with regard to elected insti-

courts had little lawmaking power until the Judiciary Act of 1925. In it, Congress expanded the courts of appeals' power by giving the Supreme Court even greater discretionary control over its caseload, thereby allowing the courts of appeals to become the final arbiter in an increasing proportion of federal cases. The Judiciary Act of 1925, combined with unanticipated growth in appellate dockets, increased the appeals courts' relative importance.

The Data Base does not contain all decisions rendered between 1925 and 1996, as that task would be impracticable given the nearly one million cases decided during that period as well as unnecessary given confidence in statistical sampling methods. The project's size, though, is ambitious: "Phase I" includes 15,325 cases from 1925 through 1988, "Phase II" includes all cases reviewed by the U.S. Supreme Court and included in the Supreme Court database (approximately 4,000 cases), and "Phase III" includes 2,880 cases from 1989 through 1996.

Phase I and III cases are a sample of all decisions reported with published, reasoned opinions<sup>1</sup> in the *Federal Reporter*: 15 randomly selected cases from each circuit for each year for the period 1925 through 1960; and 30 randomly selected cases from each circuit for each year for the period from 1961 through 1996.<sup>2</sup>

Songer and the Board chose to record an impressive number of case attributes, so that the resulting data

1. To be included in the universe of cases from which the sample was drawn, the decision had to report the court's ruling and to provide at least one rationale upon which the final judgment was based. The form of the decision was not determinative: the universe of cases included some per curiam and some memorandum decisions.

2. The number of cases decided annually by each circuit varies widely across circuits and across years, so the selected cases — a constant number from each circuit in each year (called a "circuit-year") — do not represent a "random sample" of the universe of cases even though they do represent a random sample of cases from a given circuit in a given year. Users wishing to analyze a random sample for the entire Data Base may do so by weighting each circuit-year utilizing a table of weights provided in Appendix 5 of the Documentation.

could be useful to a broad array of public law scholars, lawyers, judges, and other students of the courts. Each case entry contains information with respect to 221 variables that fall into four broad categories: "basic case characteristics," "participants," "issues," and "judges and votes." (An abridged listing of the variables included in each category is set forth in Table 1; see page 246 for a list of all variables.)

Basic case characteristics are those that provide descriptive information and case history. All participants are identified as one of seven basic types; in addition, up to the first two appellants and up to the first two appellees listed in the case name are further classified as one of a large number of highly specified types. Participants also are labeled to indicate their status below (plaintiff, defendant, or intervenor), and original parties who did not participate in the appeal are noted.

Issues are reported in three ways: using the Supreme Court database legal categories; using the West Topics and key numbers in the case

headnotes; and using the majority opinion's characterizations. The issues category also includes the ideological direction of the court's decision. Finally, judges and votes variables set forth the identity of judges participating in the decision and the direction of their votes.

The 221 variables (each identified by a "field" number and by an acronym) are recorded as a numeric or alphanumeric code that is connected to a certain definition. For example, field 16 is the "SOURCE" variable and records the forum that heard the case immediately before the case came to the court of appeals. The variable takes a single value from 1 through 16; the variable is coded as "1" if the case came from a single-judge federal district court, "2" if the case came from a three-judge district court, "3" if the case came from a state court, and so on through "16." The coding scheme, which is detailed in the documentation accompanying the Data Base and available as a Word Perfect file, explains in detail the code assigned to each value of the variable of interest.

**Table 1: Variables in the U.S. Courts of Appeals Data Base**

Categories	Variables	Categories	Variables	
<b>Basic case characteristics</b>	Date	<b>Participants</b>	Basic type of each appellee/appellant	
	Citation		First 2 appellants/appellees detailed type(s)	
	1st docket number		Original plaintiff/defendant	
	Total docket		Intervenor status	
	Opinion length		Missing parties	
	Procedural history		<b>Issues</b>	U.S. Supreme Court Data Base issue types: 8 general types & 220 specific categories
	Circuit			Issue question
	District			Statute(s)
	State			Ideological direction on each issue
	District judge		<b>Judges and votes</b>	Constitutional provision(s)
	Decision below	Federal rules		
	Citation below	Majority opinion		
	Decision	Judges participating in the decision		
	Dissent	Ideological direction of each judge's vote		
Concurrence				
Amicus				
Counsel				
Supreme Court treatment				
Class action				
Cross-appeals				
En banc				

The Data Base presents tremendous opportunities for the empirical evaluation of issues of substantive law as well as issues of court administration, of the behavior of litigants, and of the behavior of judges. While it would be impossible to canvas all of the questions that the data can help answer, considered here are a few in each of these four areas and how they might be answered in part by the Data Base.

### Legal doctrine and theory

A rich area for study using the Data Base is the development of legal doctrine in federal courts. The Data Base includes detailed information about the legal issues covered in each case. The coding of legal issues is not as simple as, say, the coding of the docket number. So, Songer and the Board categorized issues in three ways.

First, cases are coded according to the issue labels used in the Supreme Court Data Base to allow for the use of the two Data Bases in tandem. Each case is coded as falling into one of eight broad issue types: criminal, civil rights, First Amendment, due process (non-criminal), privacy, labor relations, economic activity and regulation, and miscellaneous.

Cases are also placed in one of 220 specific subcategories, such as due process rights of prisoners, school desegregation, abortion, right to die, federal individual income tax, motor vehicle torts, insurance disputes, eminent domain, and immigration.

Finally, each decision is recorded as liberal or conservative, reflecting whether the court supports or opposes the general issue to which the case pertains. For example, a criminal decision is "liberal" if it is pro-criminal defendant and "conservative" if the opposite.

The Data Base also views each case using the West headnotes and keynumbers listed prior to the

panel's opinion in each published case. The Data Base lists citations to no more than two provisions or sections (selecting those most frequently cited if more than two are cited) from each of the following: U.S. Constitution, U.S. Code, Federal Rules of Civil Procedure, and Federal Rules of Criminal Procedure.

Finally, the Data Base takes the perspective of the court of appeals majority opinion as to the issues the court believed it was addressing. This portion of the Data Base includes 69 variables. The Data Base records whether a series of threshold issues, such as mootness, were discussed in the opinion, and if so, how they were decided. The Data Base includes information as to whether the opinion engaged in statutory

cases. For example, is a circuit court likely to reverse a jury verdict in a motor vehicle tort suit? Does the probability of reversal depend upon which party was successful at trial? Do courts of appeals in motor vehicle tort suits engage in statutory interpretation of state statutes or rely more often on common law tort? The researcher could consider any of the variables included in the Data Base in the context of just one type of case. This line of inquiry represents merely one way that the Data Base could be used to examine substantive legal questions. Creative thinkers will undoubtedly discover many, many more.

### Court administration

Issues of court administration have been central to federal courts studies. Court administration decisions must be made with an understanding of how the work of the courts is being handled. In recognition of this, the Administrative Office of the United States Courts was directed in the 1940s to maintain detailed records on federal judicial business. While the AO's annually published data convey basic statistics on all decisions, it provides only a summary account of the courts' workload and output. The Courts of Appeals Data Base complements the Administrative Office data by offering details with respect to a sample of decisions, allowing analysis of specifically tailored questions on court administration.

Perhaps the single greatest modern court administration issue is the "crisis" of caseload in the circuits. Countless articles and numerous task forces have warned of the scope of the problem and of the dangers posed by the increasing circuit workload.<sup>3</sup> Com-

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## The availability of the Courts of Appeals Data Base will allow researchers to extend theoretical perspectives developed in Supreme Court studies to the intermediate appellate courts.

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construction, constitutional interpretation, and/or analysis of circuit or common law. The Data Base reflects whether a long list of civil and criminal procedure questions were raised by the majority opinion, and how any questions were resolved. Finally, the Data Base sets forth specific substantive legal issues that were considered by the majority and how they were resolved.

Researchers could address any number of doctrinal questions, given the richness of the issues coding. A scholar or lawyer interested in the resolution of motor vehicle torts could begin by culling out all such cases included in the Data Base. Then the researcher could consider any number of questions about such

3. See, e.g., BAKER, RATIONING JUSTICE ON APPEAL: THE PROBLEMS OF THE U.S. COURTS OF APPEALS (1994); Carrington, *Crowded Dockets and the Courts of Appeals: The Threat to the Function of Review and the National Law*, 82 HARV. L. REV. 542 (1969); Hellman, *Courting Disaster*, 39 STAN. L. REV. 297 (1986); POSNER, THE FEDERAL COURTS: CRISIS AND REFORM (1985).



JAMES M. MESSUTO PHOTOGRAPHY

**U.S. Courthouse, Foley Square,  
New York.**

mentators have proposed various solutions, some minor, others dramatic. All of the proposals would benefit from empirical examination.

The White Commission, the latest governmental body to tackle the problem, has proposed, among other things, the creation of two-judge panels to handle certain “easy” or less important cases as a means of expanding the decision-making capac-

ity of the courts of appeals.<sup>4</sup> In order to evaluate the Commission’s proposal, we have to know how many cases are within its scope and whether those cases are likely to be decided differently if only two judges participated in the decision. We can answer these questions with the Data Base. To do so, we would select from the Data Base all cases with characteristics and issues such that they appear to fit the Commission’s case category. The Data Base includes detailed information as to the legal issues addressed in the case as well as the case

history. After choosing all cases that appear to satisfy the Commission’s definition of “easy” cases, we would see how often a judge dissented in those rulings. The Data Base includes the judges’ votes in each case; therefore, we can determine whether supposedly easy cases were in fact cases in which all three panelists agreed. If judges dissented as frequently in easy cases as in other cases, then the two-judge panel system may not be workable.

We might also want to consider whether the Commission’s two-judge panel proposal would affect a similar percentage of each circuit’s caseload. We could compare the number of easy cases in each circuit (utilizing the weighting numbers to account for sample size variation) to determine whether the proposed change would have a greater impact on some circuits than on others. Finally, the Data Base’s longitudinal character allows us both to ascertain what proportion of the circuits’ caseload has been made up of “easy” cases over time and to make predictions about what proportion will be “easy” in the future.

The White Commission also considered whether Congress should address the caseload crisis by dividing the most overworked court of appeals, the Ninth Circuit. The heated debate over restructuring the Ninth Circuit is fed in part by differing perceptions of the nature of rulings coming out of the Ninth Circuit as compared to other circuits (i.e., is the Ninth Circuit too liberal?), the Supreme Court’s treatment of the Ninth as compared to other circuits (i.e., is the Ninth Circuit more often reversed?), and the allegedly divergent role conceptions of California federal judges as compared to other judges (i.e., are the California judges too activist?). These perceptions are informed typically by individual events or recollections, rather than by a systematic view of the Ninth Circuit itself and the Ninth Circuit as compared to other circuits. But, the Courts of Appeals Data Base can address each of these questions in an orderly and exhaustive manner.

4. Commission on Structural Alternatives for the Federal Courts of Appeals (White Commission), FINAL REPORT (Dec. 18, 1998).

## Litigant decision making

Judicial scholars are becoming increasingly attentive to the role and significance of parties in judicial decision making. Most of the research examining parties focuses solely on the United States Supreme Court. In recent years, there has been more interest in the role of party characteris-

tics in determining who wins and loses on the merits in the Supreme Court.<sup>5</sup> Most studies focus on the success of such "repeat players" as the federal government and politically disenfranchised groups.<sup>6</sup> The availability of the Courts of Appeals Data Base will allow researchers to extend these theoretical perspectives devel-

oped in Supreme Court studies to the intermediate appellate courts because the Data Base includes extensive information about the participants and their success.

The Courts of Appeals Data Base provides a detailed coding of the appellant and respondent in each case. The coding includes the identification of the second appellant and respondent listed, if there are multiple parties in a case. There are also codes that allow the researcher to determine the total number of parties participating within coded subcategories of parties. The subcategories of parties include natural persons, business, sub-state government, state government, federal government, nonprofits and fiduciaries. The collapsing of the party identification into general categories offers the researcher a simple and fast method of examining parties, but for those interested in more specific types of parties the Data Base extends the categories substantially into more highly specified subcategories. For example, the coding for federal government is extended to identify individual federal agencies appearing before the appeals courts. Similarly, business codes are extended into categories like transportation, which is then extended further to identify railroads, shipping, trucking, and airlines.

This detailed coding of parties facilitates the exploration of numerous theoretical perspectives regarding litigants. One significant line of inquiry is who participates and how much in the appeals courts. The question of access to government institutions is an essential question underlying democratic theory. The courts are often viewed as the one governmental institution in which the disadvantaged can seek redress of grievances and protection of rights.

## USING THE DATA BASE

Although the Data Base holds great possibilities for scholarship, it may intimidate many potential users who are unfamiliar with computerized data. Scholars who are not able to use a statistical programming language, such as SAS, STATA, or SPSSx, will not be able to manipulate the data to generate summary statistics (such as frequencies and relative frequencies) or to test research hypotheses.

Faced with this dilemma, the user can either hire someone with the necessary computer skills or learn those skills. The paid programmer does not need to have any familiarity with law or courts — anyone who can use a statistical programming language should be able to construct programs to answer the researcher's questions. Or, the user can invest time in learning a programming language, a task that has gotten much easier in recent years and pays dividends in the ability to utilize data in future projects.

When undertaking a project using the Data Base, the user should begin by reviewing the 269-page Documentation file. As explained below, the Data Base Documentation file can be downloaded from either of two websites. The Documentation lays out in detail the variables included in the data set as well as the methodology adopted for recording each variable. The user should be able to determine whether the data includes information relevant to her inquiry by considering its contents.

The Data Base and its documentation can be obtained from the Inter-University Consortium for Political and Social Research ("ICPSR") or the Program for Law and Judicial Politics sponsored by the Michigan State University Political Sci-

ence Department ("PLJP"). ICPSR, a not-for-profit organization serving member institutions and housed at the University of Michigan, maintains the world's largest archive of computerized social science data. The official ICPSR representative at any ICPSR-member institution (nearly all universities and colleges belong) can retrieve the data on-line or through the ICPSR's ordering facility, Consortium Data Network (CDNet).

In the alternative, researchers affiliated with a member institution can create an individual membership account and download the data directly. The Documentation can be downloaded freely from the ICPSR's webpage. You can access more information about ICPSR, including its other holdings and a listing of member institutions, at its home-page (<http://www.icpsr.umich.edu/>).

The data are freely available (and easier to download) by accessing PLJP's webpage (<http://www.ssc.msu.edu/~pls/pljp/index.html>). The U.S. Courts of Appeals Data Base is available in a format for use with either SAS or SPSS programming language as well as in an ASCII format, a general or universal form.<sup>1</sup> The Documentation file for the Data Base is also available in Portable Document Format ("PDF").<sup>2</sup>

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and Reginald S. Sheehan

1. The data set can be downloaded quickly because it is stored in a compressed form ("zipped"). Before using the data, the user must uncompress it (i.e., "unzip" it) using a program such as WinZip or PKZip. These programs can be downloaded without charge via a link on the PLJP Archive page.

2. Adobe Acrobat Reader, a free program available on the Web that allows you to read PDF files, can be reached via a link on PLJP's page.

5. See, e.g., Sheehan, Mishler & Songer, *Ideology, Status, and the Differential Success of Direct Parties Before the Supreme Court*, 86 AM. POL. SCI. REV. 464 (1992).

6. Galanter, *Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change*, 9 LAW AND SOC'Y REV. 95 (1974) (proposing that litigants with "repeat player" status and more financial resources are more likely to be successful in court).

Examining participation rates across time would provide insights into whether the courts perform this role and the extent to which the courts' role may have changed over time.

The role of federal agencies in Supreme Court litigation has received considerable attention over the years.<sup>7</sup> Most of the studies conclude that federal agencies are more successful in litigation than other types of litigants. Some of the studies identify differences across agencies in success rates and attribute this to agency characteristics. Since the majority of federal agency cases never move beyond the appeals courts, it would follow that more attention should be given to the role of agencies at this level.

The detailed coding of parties in the Data Base allows researchers to examine success rates of different types of agencies across time. It is not clear if federal agencies maintain their high rates of success over time or if some agencies are more likely to fall out of favor than others. If some agencies do fall out of favor, we do not know if this is a result of changes in the social and political environment in which they operate or whether it reflects changes in the political climate that are not favorable to a particular agency. Utilizing the data on judge characteristics in the Data Base combined with the parties coding of federal agencies allows one to determine if judges are more supportive of agencies under different presidential administrations. The Data Base will allow researchers to explore these relationships more thoroughly and to draw comparisons with findings reported in the Supreme Court.

7. See, e.g., Canon & Giles, *Recurring Litigants: Federal Agencies Before the Supreme Court*, 25 W. POL. Q. 183 (1972); Puro, *The United States as Amicus Curiae*, in *COURTS, LAW AND JUDICIAL PROCESSES* (Ulmer ed. 1981); Crowley, *Judicial Review of Administrative Agencies: Does the Type of Agency Matter?* 40 W. POL. Q. 265 (1987); Songer & Sheehan, *Who Wins on Appeal? Upperdogs and Underdogs in the United States Courts of Appeals*, 36 AM. J. POL. SCI. 235 (1992).

There are many other interesting theoretical perspectives that could be pursued with this rich identification of parties. The perspectives mentioned here are drawn from work at the Supreme Court level and while these are fruitful avenues of research in the lower courts, we are convinced there are perspectives unique to the appeals courts that will develop as scholars begin to use the Data Base.

### Judicial behavior

Scholars and practitioners will find the Data Base useful in exploring various aspects of judicial behavior. While studies of judicial decision making in the U.S. Supreme Court abound, the limited availability of data has always constrained our ability to conduct similar studies in the

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courts of appeals. A primary purpose for the creation of the Data Base was to develop and test theoretical perspectives, some of which originate in the Supreme Court literature, regarding factors influencing judicial decision making.

The Data Base consists of codes for the votes of panels and individual judges in the courts of appeals. Besides coding the actual vote to affirm or reverse, the principal investigator also coded the ideological direction of the vote and decision. The ideological direction and vote variables provide powerful tools for those interested in judicial behavior. The researcher can determine how individual judges vote in particular issue areas, both from an ideological and a legal perspective. Moreover, the data can easily be used to examine presidential appointment effects on individual judges and on circuit panels.

The existing work in this area typically has been limited to short periods of time, but the Data Base allows for the exploration of 72 years and numerous presidential administrations.

The primary use of the vote data will be to develop models of decision making. Models examining the influence of both legal and socio/political factors on judicial behavior in the appeals courts are much more accessible with this data. Collecting and obtaining other sources of data will further enrich the uses of the Data Base and its utility in explaining judicial behavior. The addition of public opinion data, detailed identification of amicus curiae participants, socioeconomic indicators, political variables, and social background characteristics of judges will give the researcher the resources to pursue lines of inquiry equivalent to those in the Supreme Court literature. To what extent are appeals court judges influenced by their attitudes and values in deciding cases? Do appeals courts act in a majoritarian or counter-majoritarian

manner with regard to other elected institutions and the general public? What is the role of interest groups in deciding outcomes in the appeals courts? Are there differences across circuits in decision making? Do factors influencing decision making remain constant across time?

The Data Base is the platform upon which we can begin to pursue answers to these and many other questions regarding judicial behavior. The vote data combined with the parties, nature of the issues, legal provisions, presidential appointment, amicus presence, and circuit controls allow for the testing of models that move beyond work previous to the Data Base. As users become more creative with their use of the Data Base and additional data is collected in pursuit of individual research questions we would expect to see our understanding of judicial be-

# VARIABLES IN THE U.S. COURTS OF APPEALS DATA BASE

## Basic Case Characteristics

### General description

1. CASENUM case identification
2. YEAR year of decision
3. MONTH month of decision
4. DAY day of decision
5. CITE citation in Federal Reporter
6. VOL volume in which case located
7. BEGINPG page number of 1st page of case
8. ENDOPIN page number of last page of majority opinion
9. ENDPAGE page number of last page of all opinions in case
10. DOCNUM docket number of first case decided by the opinion
11. METHOD nature of appeals court decision (e.g., 1st decision by 3 judge panel, en banc)

### B. History and Nature of Case

12. CIRCUIT circuit of court
13. STATE state of origin of case
14. DISTRICT district of origin of case
15. ORIGIN type of court or agency that made original decision
16. SOURCE forum from which decision appealed
17. DISTJUDG ID of district judge (if any) deciding case below
18. APPLFROM type of district court final judgment (if any) appealed from
19. ADMINREV ID of federal regulatory agency (if any) the case was appealed from
20. PRIORPUB citation (if any) to prior published opinion in district court
21. OPINSTAT opinion status of decision
22. CLASSACT was case a class action?
23. CROSSAPP were there cross appeals?
24. SANCTION were sanctions imposed?
25. INITIATE party initiating appeal (e.g., plaintiff, defendant, intervenor)

## Participants

### A. Appellants

26. NUMAPPEL total number of appellants
27. APPNATPR number of appellants who were natural persons
28. APPBUS number of appellants who were private businesses
29. APPNONP number of appellants who were non-profit groups
30. APPFED number of appellants who were federal government agencies
31. APPSUBST number of appellants who were sub-state governments
32. APPSTATE number of appellants who were state government agencies
33. APPFIDUC number of appellants who were fiduciaries or trustees
34. APP\_STID state of appellant (if appellant is state or local govt)
35. GENAPEL1 general classification of 1st appellant
36. BANK\_API was first appellant bankrupt?
37. APPEL1 detailed nature of 1st listed appellant
38. GENAPEL2 general classification of 2nd appellant
39. BANK\_AP2 was second appellant bankrupt?
40. APPEL2 detailed nature of 2nd listed appellant whose code is not identical to the code of the first appellant
41. REALAPP are the appellants coded in var 37 and var 40 the real parties in this case?

### Respondents

[Variables 26-41 are repeated for respondents as variables 42-57]

### C. Other Participants

58. COUNSEL1 counsel for appellant
59. COUNSEL2 counsel for respondent
60. AMICUS number of amicus curiae briefs filed

61. INTERVEN was there an intervenor?

### Issue Coding

#### A. Basic Nature of Issue and Decision

62. CASETYP1 first case type - substantive policy (analogous to Spaeth issue codes)
63. GENISS eight summary issue categories based on CASETYP1
64. DIRECT1 directionality of decision on 1st case type
65. CASETYP2 second case type
66. DIRECT2 directionality of decision on 2nd case type
67. TREAT treatment of decision below by appeals court
68. MAJVOTES number of majority votes
69. DISSENT number of dissenting votes
70. CONCUR number of concurrences
71. HABEAS was this a habeas corpus case?
72. DECUNCON was law or administrative action declared unconstitutional?
73. CONSTIT was there an issue about the constitutionality of a law or administrative action?
74. FEDLAW did the court engage in statutory interpretation?
75. PROCEDUR was there an interpretation of precedent that did not involve statutory or constitutional interpretation?
76. TYPEISS general nature of proceedings (criminal, civil-government, civil - private, diversity)

#### B. Most Frequently Cited Constitutional Provisions, Statutes, and Procedural Rules

77. CONST1 constitutional provision most frequently cited in headnotes
78. CONST2 constitutional provision 2nd most frequently cited in headnotes

havior in the appeals courts reach comparable levels found in the Supreme Court.

## Promoting understanding

The U.S. Courts of Appeals Data Base provides a single reliable and systematic compilation of cases from all cir-

cuits. Before the Data Base, scholars interested in testing even a simple hypothesis were required to construct a data set, a time-consuming task that discouraged many interested researchers. Today, scholars can take advantage of this nearly exhaustive collection of information on

courts of appeals decisions in order to examine their research questions. The Data Base's potential may be predicted by considering the great success of the database on which it is modeled, the U.S. Supreme Court Judicial Data Base.

The ready availability of the Data



79. USC1 title of US Code most frequently cited in headnotes  
 80. USC1SECT section of USC1 most frequently cited in headnotes  
 81. USC2 title of US Code 2nd most frequently cited in headnotes  
 82. USC2SECT section of USC2 most frequently cited in headnotes  
 83. CIVPROC1 Federal Rule of Civil Procedure most frequently cited in headnotes  
 84. CIVPROC2 Federal Rule of Civil Procedure 2nd most frequently cited in headnotes  
 85. CRMPROC1 Federal Rule of Criminal Procedure most frequently cited in headnotes  
 86. CRMPROC2 Federal Rule of Criminal Procedure 2nd most frequently cited in headnotes

**C. Threshold Issues**

87. JURIS was there a jurisdiction issue?  
 88. STATECL was there an issue about failure to state a claim?  
 89. STANDING was there an issue about standing?  
 90. MOOTNESS was there an issue about mootness?  
 91. EXHAUST was there an issue about ripeness or failure to exhaust administrative remedies?  
 92. TIMELY was there an issue about whether litigants complied with a rule about timeliness, filing fees, or statutes of limitation?  
 93. IMMUNITY was there an issue about governmental immunity?  
 94. FRIVOL was there an issue about whether the case was frivolous?  
 95. POLQUEST was there an issue about the political question doctrine?  
 96. OTHTHRES was there some other threshold issue at the trial level?  
 97. LATE was there an issue relating to the timeliness of the appeal?

98. FRIVAPP was there an allegation that the appeal was frivolous?  
 99. OTHAPPTH was there some other threshold issue at the appellate level?

Criminal issues (for each of the issues below, the coding captures whether the issue was discussed in the opinion and if so whether the resolution of the issue favored the appellant or the respondent)

[Variables 100-118 are various criminal issues, e.g., death penalty, admissibility of confession]

**Civil Law Issues**

[Variables 119-136 are various civil law issues, e.g., interpretation of executive order or administrative regulation, attorney's fees]

**F. Civil Law Issues Involving Government Actors, Administrative Law**

[Variables 137-149 are various civil law issues involving government actors, administrative law, e.g., substantial evidence doctrine, use of standard of review, "de novo on facts"]

**G. Diversity Issues**

150. DIVERSE were the parties truly diverse ?  
 151. WHLAWS which state's laws should govern dispute ?

**Judges and Votes**

160. CODEJ1 code for the judge who wrote the court opinion  
 161. CODEJ2 code for 2nd judge on panel  
 162. J2VOTE1 vote of 2nd judge on 1st case type  
 163. J2VOTE2 vote of 2nd judge on 2nd case type  
 164. J2MAJ1 was 2nd judge in majority on 1st case type?  
 165. J2MAJ2 was 2nd judge in major-

- ity on 2nd case type?  
 166. CODEJ3 code for 3rd judge on panel  
 167. J3VOTE1 vote of 3rd judge on 1st case type  
 168. J3VOTE2 vote of 3rd judge on 2nd case type  
 169. J3MAJ1 was 3rd judge in majority on 1st case type?  
 170. J3MAJ2 was 3rd judge in majority on 2nd case type?  
 171. CODEJ4 code for 4th judge on panel  
 172. J4VOTE1 vote of 4th judge on 1st case type  
 173. J4VOTE2 vote of 4th judge on 2nd case type  
 174. J4MAJ1 was 4th judge in majority on 1st case type?  
 175. J4MAJ2 was 4th judge in majority on 2nd case type?  
 176. CODEJ5 code for 5th judge on panel  
 177. J5VOTE1 vote of 5th judge on 1st case type  
 178. J5VOTE2 vote of 5th judge on 2nd case type  
 179. J5MAJ1 was 5th judge in majority on 1st case type?  
 180. J5MAJ2 was 5th judge in majority on 2nd case type?  
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 225. CODEJ15 code for 15th judge on panel  
 226. J15VOTE1 vote of 15th judge on 1st case type  
 227. J15VOTE2 vote of 15th judge on 2nd case type  
 228. J15MAJ1 was 15th judge in majority on 1st case type?  
 229. J15MAJ2 was 15th judge in majority on 2nd case type?  
 Comments on the U.S. Courts of Appeals Data Base

Base should stimulate interest in the politics of the courts of appeals and promote efforts to move our understanding of courts of appeals forward by providing a means of examining and testing complex theories. Now these hypotheses can be tested empirically and systematically, not

merely by reliance on idiosyncratic, anecdotal evidence.

Of course, data collection is not a substitute for principle construction. Facts without theory do not add to our understanding of law or legal systems. Thus, the Courts of Appeals Data Base has no value ab-

sent sound and frequent utilization of its contents to examine reasoned hypotheses and research inquiries. We hope that the Data Base will be at the heart of future research on courts of appeals, for it deserves that attention. ☞