Version: 8.13.21
[replaces 5.28.21 version]

NSF Project: Judicial Diversity and Appellate Decision Making
CODEBOOK

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Foreword

This research project gathered information on decision making in the U.S. Courts of Appeals from 2009-2016. With funding from the National Science Foundation,[1] we have been collecting data to examine how demographic diversity in the judiciary affects case outcomes, opinion content, and other aspects of decision making. This dataset represents the first stage of this project; it also provides users with more recent data to extend the existing Multi-User Database on the U.S. Courts of Appeals.[2] Similar to the Multi-User Database, we used a stratified random sample of 30 cases per circuit-year, totaling 2,880 cases over the period. We automated coding for some variables. For others, Barry Edwards, a consultant on this project, developed an on-line interface and drop-down menus that allowed research assistants to code and record information from the body of the opinion. We should emphasize that, when comparing this dataset with the existing Multi-User Database, we coded a subset of variables. Moreover, users should pay close attention to differences in coding for many variables. For example, rather than coding the number of amicus participation (and for which side), we coded the variable "amicus" to be "1" if any amicus brief was filed. Below, we list all variables, along with coding rules.

In addition to this documentation:

1. STATA dataset, with case data – 2009-2016
2. Excel spreadsheet with judge data (all living federal judges, 2008-2016)

[1] Data for this project were collected with support from the National Science Foundation (NSF-SES #1655159, 1654614, 1654559, 1654697). Any opinions, findings, and conclusions or recommendations expressed are those of the authors and do not necessarily reflect the views of the National Science Foundation.

[2] Presently, the Multi-User Database includes cases from 1925-2002. Information on the archived Database (previously funded by NSF) is available at http://artsandsciences.sc.edu/poli/juri/appct.htm.

3. Compressed file with excel spreadsheets with the universe of case citations, by circuit year, from which the samples were drawn (users may need this for weighting purposes; or, they may wish to augment the observation set).

BASIC CASE CHARACTERISTICS

CASENUM This field represents a simple unique identifier for each case, beginning with XXXX for the first case coded from 2009 and proceeding consecutively.

CASENAME This field provides the caption/title of the case.

CITATION This field provides the full citation to the case.

YEAR (YYYY) The year of the decision date.

MONTH (MM) The month of the decision date.

DAY (DD) The day of the decision date.

CITE VOL Using the case citation, this is the volume of the Federal Reporter.

BEGINPG is the page on which the case begins in the Federal Reporter.

ENDOPIN is the last page of the majority opinion.

ENDPAGE indicates the last page in the case (e.g., the last page of a dissenting or concurring opinion). ENDOPIN and ENDPAGE will generally be the same in decisions with no dissents and no concurrences. However, ENDPAGE may also be greater than ENDOPIN when there is an appendix or some memorandum at the end of the majority opinion.

DOCNUM lists the docket number of the case coded. For opinions that resolved more than one docket number, the first docket number listed is recorded in this field.

MULTDOCK lists the number of docket numbers of the case coded.

CIRCUIT

This field records the circuit of the court that decided the case. The District of Columbia circuit is coded as XX and all other circuits by their number.

TYPE OF OPINION ("**OPINSTAT**")

This field records whether there was an opinion in which the opinion writer was identified or whether the opinion was per curiam. Most opinions are signed, with reasons. The variable takes the following values:

1= signed, with reasons
2= per curiam, with reasons
9=not ascertained

METHOD OF DECISION

This variable records the nature of the proceeding in the court of appeals for the citation selected. It records something of the legal history of the case, indicating whether there had been prior appellate court proceeding on the same case prior to the decision currently coded.

1 = decided by panel for first time (no indication of rehearing or remand).
2 = decided by panel after re-hearing (i.e., this is the second time this case has been heard by this same panel).
3 = decided by panel after remand from Supreme Court
4 = decided by court en banc, after single panel decision
5 = decided by court en banc, after multiple panel decisions
6 = decided by court en banc, no prior panel decisions
7 = decided by panel after remand to lower court (e.g., an earlier decision of the court of appeals remanded the case back to the district court which made another decision. That second decision of the district court is now before the court of appeals on appeal).
8 = other
9 = not ascertained

Notes:

i) coders generally assumed that the case had been decided by the panel for the first time if there was no indication to the contrary in the opinion.

ii) the opinion usually, but not always explicitly indicates when a decision was made "en banc." However, if more than 3 judges were listed as participating in the decision, the decision was coded as en banc even if there was no explicit description of the proceeding as en banc.

STATE

This field records the state or territory in which the case was first heard. If the case began in the federal district court, it is the state of that district court. If it is **a habeas corpus** case, it is the state of the state court that first heard the case. If the case originated in a federal administrative agency, the variable is coded as "not applicable."

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00 not determined
01 Alabama
02 Alaska
03 Arizona
04 Arkansas
05 California
06 Colorado
07 Connecticut
08 Delaware
09 Florida
10 Georgia
11 Hawaii
12 Idaho
13 Illinois
14 Indiana
15 Iowa
16 Kansas
17 Kentucky
18 Louisiana
19 Maine
20 Maryland
21 Massachusetts
22 Michigan
23 Minnesota
24 Mississippi
25 Missouri
26 Montana
27 Nebraska
28 Nevada
29 New Hampshire
30 New Jersey
31 New Mexico
32 New York
33 North Carolina
34 North Dakota
35 Ohio

36 Oklahoma
37 Oregon
38 Pennsylvania
39 Rhode Island
40 South Carolina
41 South Dakota
42 Tennessee
43 Texas
44 Utah
45 Vermont
46 Virginia
47 Washington
48 West Virginia
49 Wisconsin
50 Wyoming
51 Virgin Island
52 Puerto Rico
53 District of Columbia
54 Guam
55 not applicable - case from court other than US District Court or state court (e.g., appealed from regulatory agency)
56 Panama Canal Zone
57 North Mariana Islands

DISTRICT: REGULAR COURT OF DISTRICT JUDGE

This field indicates which district, if any, a federal district court judge comes from (e.g., Eastern). Some states are only one district.

TYPE OF COURT OR AGENCY THAT MADE ORIGINAL DECISION* ("**ORIGIN**")

This field records the type of court that made the original decision. Often, this will be the same as the SOURCE. (Note that cases removed from a state court are coded as originating in federal district court.) The variable takes the following values:

1 = federal district court (single judge)
2 = 3 judge district court
3 = state court (includes habeas corpus petitions after conviction in state court; also includes petitions from courts of territories other than the U.S. District

Courts)
4 = bankruptcy court, referee in bankruptcy, special master
5 = federal magistrate
6 = originated in federal administrative agency
7 = special DC court (i.e., not US District Court for DC)
8 = other (e.g., Tax Court, a court martial)
9 = not ascertained
10=Tax Court
11=ALJ

FORUM FROM WHICH DECISION APPEALED* ("**SOURCE**")

This field identifies the forum that heard this case immediately before the case came to the court of appeals. Note that often the SOURCE and ORIGIN will be the same. The variable takes the following values:

1 = federal district court (single judge)
2 = 3 judge district court
3 = state court
4 = bankruptcy court or referee in bankruptcy
5 = federal magistrate
6 = federal administrative agency
7 = Court of Customs & Patent Appeals
8 = Court of Claims
9 = Court of Military Appeals
10 = Tax Court or Tax Board
11 = administrative law judge
12 = U.S. Supreme Court (remand)
13 = special DC court (i.e., not the US District
Court for DC)
14 = earlier appeals court panel
15 = other
16 = not ascertained
17=bankruptcy appellate panel (BAP)

DISTRICT JUDGE DECIDING CASE BELOW ("**DISTJUDG**")

This field identifies the federal district court judge (if any) that heard the case in the original trial. *In a separate excel spreadsheet, you can find two lists of codes for all judges, who were alive during this time period. In one worksheet, we provide a list, downloaded from the FJC in 2018, of all federal judges, along with background information provided by the FJC. In another worksheet, we provide a list of all district court judge names and codes.* If the case was decided by a magistrate, this field is set to missing/blank.

TYPE OF DISTRICT COURT JUDGMENT APPEALED FROM ("**APPLFROM**")

This field records the type of district court decision or judgment appealed from (i.e., the nature of the decision below in the district court). If there was no prior district court action, the variable is coded as not applicable.

1 = trial (either jury or bench trial)
2 = injunction or denial of injunction or stay of injunction
3 = summary judgment or denial of summary judgment
4 = guilty plea or denial of motion to withdraw plea
5 = dismissal (includes dismissal of petition for habeas corpus; also includes denial of habeas below)
6 = appeals of post judgment orders (e.g., attorneys' fees, costs, damages, judgment notwithstanding the verdict (JNOV), also code judgment as a matter of law here (JAML)
7 = appeal of post settlement orders
8 = not a final judgment: interlocutory appeal
9 = not a final judgment: mandamus
10 = other (e.g., pre-trial orders, rulings on motions, directed verdicts) or could not determine nature of final judgment.
11 = does not fit any of the above categories, but opinion mentions a "trial judge"
12 = not applicable (e.g., decision below was by a federal administrative agency, tax court)

If a criminal case and the only issue on appeal concerns the sentence, then it should be coded as "6"

ADMIN REVIEW* ("**ADMINREV**")

This field indicates which federal regulatory agency that a decision was appealed from, if applicable.

0 = Not applicable
1 = Benefits Review Board
2 = Civil Aeronautics Board
3 = Civil Service Commission
4 = Federal Communications Commission
5 = Federal Energy Regulatory Commissions
6 = Federal Power Commission
7 = Federal Maritime Commission
8 = Federal Trade Commission
9 = Interstate Commerce Commission
10 = National Labor Relations Board
11 = Atomic Energy Commission

12 = Nuclear Regulatory Commission
13 = Securities & Exchange Commission
14 = Board of Immigration Appeals
88 = Other federal agency
99 = Not ascertained

CITATION TO PRIOR PUBLISHED OPINION ("**PRIORPUB**")

Was there a prior published opinion (from any court, including the U.S. Courts of Appeals) for this case? If so, record the opinion citation. If not, code as zero.
Note that references to Lexis or Westlaw (WL) designations are not published opinions.

WAS THIS A CLASS ACTION OR RAISE AN ISSUE SURROUNDING WHETHER IT SHOULD BE A CLASS ACTION? ("**CLASSACT**")
0=no
1=yes

WERE THERE CROSS APPEALS? ("**CROSSAPP**")

This field is a dummy variable that records whether there were cross appeals from the decision below to the court of appeals that were consolidated in the present case. The variable takes the following values:

0=no cross appeals

1=yes, cross appeals were filed

PARTY INITIATING APPEAL ("**INITIATOR**")

This field records which of the parties below initiated the appeal. Note that in cases with cross appeals or multiple docket numbers, if the opinion does not explicitly indicate which appeal was filed first, the coding assumes that the first litigant listed as the "appellant" or "petitioner" was the first to file the appeal. In federal habeas corpus petitions, the prisoner is considered to be the plaintiff for purposes of this variable. The variable takes the following values:

1 = original plaintiff
2 = original defendant
3 = federal agency representing plaintiff
4 = federal agency representing defendant
5 = intervenor
8 = not applicable
9 = not ascertained

TREATMENT ("**TREAT**")
This field records the disposition by the court of appeals of the decision of the court or agency below; i.e., how the decision below is "treated" by the appeals court. That is, this variable represents the basic outcome of the case for the litigants and indicates whether the appellant or respondent "won" in the court of appeals. The variable takes the following values:

0= stay, petition, or motion granted
1= affirmed; or affirmed and petition denied
2= reversed (include reversed & vacated)
3= reversed and remanded (or just remanded)
4= vacated and remanded (also set aside & remanded; modified and remanded)
5= affirmed in part and reversed in part (or modified or affirmed and modified)
6=affirmed in part, reversed in part, and remanded; affirmed in part, vacated in part, and remanded
7= vacated
8= petition denied or appeal dismissed
9= certification to another court
10= not ascertained
11=affirmed, vacated (with no mention of reverse), and remanded

PARTICIPANTS

Note: for these fields, intervenors who participated as parties at the courts of appeals are counted as either appellants or respondents when it could be determined whose position they supported. For example, if there were two plaintiffs who lost in district court, appealed, and were joined by four intervenors who also asked the court of appeals to reverse the district court, the number of appellants was coded as six.

Appellant(s) Info
In some cases, there is some confusion over who should be listed as the appellant and who as the respondent. This confusion is primarily the result of the presence of multiple docket numbers consolidated into a single appeal that is disposed of by a single opinion. Most frequently, this occurs when there are cross appeals and/or when one litigant sued (or was sued by) multiple litigants that were originally filed in district court as separate actions.

The coding rule followed in such cases was to go strictly by the designation provided in the title of the case. The first person listed in the title as the appellant was coded as the appellant even if they subsequently appeared in a second docket number as the respondent and regardless of who was characterized as the appellant in the opinion.

HOW MANY? **("NUMAPPEL")**

This field records the total number of appellants in the case. If the total number cannot be determined (e.g., if the appellant is listed as "Smith, et. al." and the opinion does not specify who is included in the "et.al."), then 99 is recorded.

TYPE ("**GENAPEL1**")

To provide a general classification of appellants, this field reports the coding of the first listed appellant. The 9 categories are the same as the first digit of the detailed coding of the appellants. The variable takes the following values:

1 = private business (including criminal enterprises)
2 = private organization or association (including charitable trusts acting like NGO or interest group)
3 = federal government (includes DC)
4 = sub-state government (e.g., county, local, special district)
5 = state government (includes territories & commonwealths)
6 = government - level not ascertained
7 = natural person (excludes persons named in their official capacity or who appear because of a role in a private organization)
8 = miscellaneous (including fiduciaries and trustees)
9 = not ascertained

(if state or local party, then record the state)

PRISONER ("**A_PRISONER**")

This variable indicates whether the appellant is a prisoner in a state or federal prison and is challenging something about the conditions in prison (e.g., civil rights, liberties, etc.) and/or bringing a habeas petition. This is NOT the same as an appeal by a (convicted) criminal defendant. (Note that if a case involves a prisoner, you will also code "7" for individual above.)

0 = no
1 = yes

COUNSEL ("**COUNSEL1**")

This variable indicates the type of legal representation that the appellant has. (If a litigant is pro se, do not count them as an attorney.) It takes the following values:

1 = none (pro se)
2 = court appointed
3 = legal aid or public defender
4 = private

5 = government - US
6 = government - state or local
7 = interest group, union, professional group
8 = other or not ascertained **or some combination of the categories above**

NO. FIRMS ("**A_FIRMS**")

Enter the number of named firms appearing for each side. If a the legal counsel for a party just lists an attorney's name but no firm (e.g., Dave Jones, Cleveland, OH, on the brief for the appellant), then code 99 for the number of firms. If the government is represented by more than one different offices, then count each office separately. (This happens most often with cases in which the federal government is a party.) For instance, if there is a lawyer from the Department of Justice, the US Attorney's Office in New York, and the EPA, this would count as 3 firms (despite all of them being "federal government.") Amicus groups do not count as firms here. Truncate the value at 50 if more than 50 firms. Code as 99 if not ascertained.

NO. ATTYS ("**A_ATTY**")

Enter the number of attorneys appearing for each side. Pro se litigants do not count as an attorney. Do not count attorneys representing amicus groups here. Truncate the value at 50 if more than 50 firms. Code as 99 if not ascertained.

Respondent(s) Info (See above coding rules for Appellant(s) Info.)

NUMRESP

GENRESP1

R_PRISONER

COUNSEL2

R_FIRMS

R_ATTY

Other Info

AMICUS BRIEFS? ("**AMICUS**")

1=yes, if an amicus brief was filed
0=no

INTERVENOR? ("**INTERVENOR**")

1=yes, if intervenor for appellant or respondent
0=no

ISSUES CODING

WHAT TYPE OF CASE ("**TYPEISS**")

This variable indicates broadly the type of case. "Criminal" cases include both federal and state cases. "Civil – government" are civil law cases in which the government is a party. "Civil – private" are civil law cases in which both parties are non-governmental actors. "Diversity" cases refer to disputes involving parties from different states ("diversity of citizenship"), NOT diversity in the sense of affirmative action, etc.

Note: Most users will find the GENISS variable to be a better way to identify the general legal policy involved in the conflict between the parties.

1 = Criminal
2 = Civil-gov't
3 = Civil-Private
4 = Diversity (type of civil-private about disputes between citizens of different states)
5 = Other/not ascertained

GENERAL POLICY ISSUE CATEGORY ("**GENISS**")

This field represents a conventional way of identifying the case from an overall legal policy issue. To avoid confusion with other ways of conceptualizing the issue in the case, this variable should correspond to the first case type coded (see fields below). The field identifies the social and/or political context of the litigation. Put somewhat differently, this field identifies the nature of the conflict between the litigants.

Many of the categories closely parallel the issue categories in the Spaeth Supreme Court database (Phase I) and are identical to those used in the original Songer database.

1 = criminal (includes habeas cases)
2 = civil rights
3 = First Amendment
4 = due process
5 = privacy
6 = labor relations
7 = economic activity and regulation
9 = miscellaneous

PRIMARY ISSUE ("**CASETYP1**") *and* SECONDARY ISSUE ("**CASETYP2**")

Up to two case types are coded for each case, though the majority of cases have only one case type ("primary issue"). No decision was made in coding about which issue was the most important when two or more case types were present.

Case types are associated with the summary category assigned ("GENISS"). For instance, a case coded as a "1" for GENISS will have a CASETYP1 that is in the 100-range.

Summary categories

1. Summary category *CRIMINAL* *(includes appeals of conviction, petitions for post-conviction relief, habeas corpus petitions, and other prisoner petitions which challenge the validity of the conviction or the sentence),* then select from the following more detailed case types. Note that in habeas cases, if a petitioner is challenging a state conviction, it was coded as a state criminal offense rather than a federal offense.

Federal offenses
101 murder
102 rape
103 arson
104 aggravated assault
105 robbery
106 burglary
107 auto theft
108 larceny (over $50)
109 other violent crimes
110 narcotics
111 alcohol related crimes, prohibition
112 tax fraud
113 firearm violations
114 morals charges (e.g., gambling, prostitution, obscenity)
115 criminal violations of government regulations of business
116 other white collar crime (involving no force or threat of force; e.g., embezzlement, computer fraud, bribery)
117 other crimes
118 federal offense, but specific crime not ascertained
119 RICO

State offenses
121 murder
122 rape
123 arson
124 aggravated assault
125 robbery

126 burglary
127 auto theft
128 larceny (over $50)
129 other violent crimes
130 narcotics
131 alcohol related crimes, prohibition
132 tax fraud
133 firearm violations
134 morals charges (e.g., gambling, prostitution, obscenity)
135 criminal violations of government regulations of business
136 other white collar crime (involving no force or threat of force; e.g., embezzlement, computer fraud, bribery)
137 other state crimes
138 state offense, but specific crime not ascertained

Not determined whether state or federal offense
141 murder
142 rape
143 arson
144 aggravated assault
145 robbery
146 burglary
147 auto theft
148 larceny (over $50)
149 other violent crimes
150 narcotics
151 alcohol related crimes, prohibition
152 tax fraud
153 firearm violations
154 morals charges (e.g., gambling, prostitution, obscenity)
155 criminal violations of government regulations of business
156 other white collar crime (involving no force or threat of force; e.g., embezzlement, computer fraud, bribery)
157 other crimes
158 specific crime not ascertained

**Note: code sexual assault under category "rape."*

2. Summary issue category, *CIVIL RIGHTS* (includes civil suits instituted by both prisoners and non-prisoners alleging denial of rights by criminal justice officials; alien deportation petitions). This category excludes First Amendment, due process, and claims of denial of rights in criminal proceeding or claims by prisoners that challenge their conviction or their sentence (e.g., habeas corpus petitions are coded under the criminal category).

Civil rights claims by prisoners and those accused of crimes

-contesting the condition of their imprisonment or the denial of their rights in prison (not used for petitions filed while in prison which contest their sentence or conviction)
201 suit for damages for false arrest or false confinement
202 cruel and unusual punishment
203 due process rights in prison
204 denial of other rights of prisoners -42 USC 1983 suits
205 denial or revocation of parole -due process grounds
206 other denial or revocation of parole
207 other prisoner petitions
208 excessive force used in arrest
209 other civil rights violations alleged by criminal defendants

*****_Notes – code suit for malicious prosecution or false conviction as "201." If a prisoner sought damages under 42 USC 1983 alleging that some action of prison officials was "cruel & unusual punishment," the normal coding would be casetyp1=204 and casetyp2=202)._

Voting rights, race discrimination, sex discrimination
210 voting rights - reapportionment & districting
211 participation rights - rights of candidates or groups to fully participate in the political process; access to ballot
212 voting rights - other (includes race discrimination in voting)
213 desegregation of schools
214 other desegregation
221 employment race discrimination - alleged by minority
222 other race discrimination -alleged by minority
223 employment: race discrimination - alleged by Caucasian (or opposition to affirmative action plan which benefits minority)
224 other reverse race discrimination claims
231 employment: sex discrimination -alleged by woman
232 pregnancy discrimination
233 other sex discrimination - alleged by woman
234 employment: sex discrimination - alleged by man (or opposition to affirmative action plan which benefits women)
235 other sex discrimination - alleged by man
239 suits raising 42 USC 1983 claims (if raised as part of opposition to government economic regulation, code the economic issue as the 1st issue and 239 as the 2nd issue)

Other civil rights
241 alien petitions - (includes disputes over attempts at deportation; other immigration cases coded as 921)
251 Indian rights and law (note: under this code, only civil rights claims under Indian law are recorded; see categories 910-916 for other Indian law case types)
261 juveniles

271 poverty law, rights of indigents (civil)
281 rights of handicapped (includes employment); ADA
282 age discrimination (includes employment)
283 discrimination based on religion or nationality
284 discrimination based on sexual preference (except for category 502)
285 AIDS/HIV discrimination
290 challenge to hiring, firing, promotion decision of federal government (other than categories above)
291 other 14th amendment and civil rights act cases
299 other civil rights

3. Summary issue category *FIRST AMENDMENT*

Religion, press, commercial
301 commercial speech
302 libel, slander, defamation
303 free exercise of religion
304 establishment of religion (other than aid to parochial schools)
305 aid to parochial schools
306 press

Speech and other expression
307 obscenity (note: if challenge to obscenity law is part of appeal of criminal conviction or as part of challenge to a zoning law, two case types should be coded- 307 plus the appropriate criminal or economic category)
308 association
309 federal internal security and communist control acts, loyalty oaths, security risks
310 legality of expression in context of overt acts (speeches, parades, picketing, etc.) protesting race discrimination
311 overt acts -opposition to war and the military
312 conscientious objection to military service or other first amendment challenges to the military
313 expression of political or social beliefs conflicting with regulation of physical activity (includes demonstrations, parades, canvassing, picketing)
314 threats to peace, safety, and order (except those covered above) (includes fighting words, clear and present danger, incitement to riot)
315 challenges to campaign spending limits or other limits on expression in political campaigns
399 other (includes tests of belief)

4. Summary issue category *DUE PROCESS* is for civil cases by persons other

than prisoners. This category does not include due process challenges to government economic regulation (those challenges are included in category 7 - Economic Activity and Regulation).

410 denial of fair hearing or notice - government employees (includes claims of terminated government workers)
411 denial of hearing or notice in non-employment context
412 taking clause (i.e., denial of due process under the "taking" clause of the 5th or 14th Amendments)
413 freedom of information act and other claims of rights of access (includes all cases involving dispute over requests for information even if it does not involve the Freedom of Information Act)
499 other due process issues

5. Summary issue category *PRIVACY*

501 abortion rights
502 LGBT rights where privacy claim raised
503 contraception and other privacy claims related to marital relations or sexual behavior (not in 501 or 502)
504 suits demanding compensation for violation of privacy rights (e.g., 1983 suits)
505 mandatory testing (for drugs, AIDs, etc)
506 mandatory sterilization
507 right to die or right to refuse medical help
599 other

6. Summary issue category *LABOR*

601 union organizing
602 unfair labor practices
603 Fair Labor Standards Act issues
604 Occupational Safety and Health Act issues (including OSHA enforcement)
605 collective bargaining
606 conditions of employment
607 employment of aliens
608 which union has a right to represent workers
609 non civil rights grievances by worker against union (e.g., union did not adequately represent individual)
610 other labor relations
611 Family Medical Leave Act (FMLA)
612 ERISA

7. Summary issue category *ECONOMIC ACTIVITY AND REGULATION*

Taxes, patents, copyright

701 state or local tax
702 federal taxation - individual income tax (includes taxes of individuals, fiduciaries, & estates)
703 federal tax - business income tax (includes corporate and partnership)
704 federal tax -excess profits
705 federal estate and gift tax
706 federal tax - other
710 patents
711 copyrights
712 trademarks
713 trade secrets, personal intellectual property

Note: 703- business income tax is generally a tax on the profits of a business or corporation before they have been distributed to stockholders or owners; a dispute between the IRS and a receiver of dividend income will generally be coded as 702 -individual income tax.

Torts

720 motor vehicle
721 airplane
722 product liability
723 federal employer liability; injuries to dockworkers and longshoremen
724 other government tort liability
725 workers compensation
726 medical malpractice
727 other personal injury
728 fraud
729 other property damage
730 other torts
780 legal malpractice

Commercial disputes

731 contract disputes-general (private parties)
(includes breach of contract, disputes over meaning of contracts, suits for specific performance, disputes over whether contract fulfilled, claims that money owed on contract. **Note**: this category is not used when the dispute fits one of the more specific categories below).
732 disputes over government contracts
733 insurance disputes
734 debt collection, disputes over loans
735 consumer disputes with retail business or providers of services
736 breach of fiduciary duty; disputes over franchise agreements
737 contract disputes - was there a contract, was it a valid contract?

738 commerce clause challenges to state or local government action
739 other contract disputes-
(includes misrepresentation or deception in contract, disputes among contractors or contractors and subcontractors, indemnification claims)
740 private economic disputes (other than contract disputes)

Bankruptcy, antitrust, securities

741 bankruptcy - private individual (e.g., chapter 7)
742 bankruptcy - business reorganization (e.g., chapter 11)
743 other bankruptcy
744 antitrust - brought by individual or private business
(includes Clayton Act; Sherman Act; and Wright-Patman)
745 antitrust - brought by government
746 regulation of, or opposition to mergers on other than anti-trust grounds
747 securities - conflicts between private parties (including corporations)
748 government regulation of securities

Miscellaneous economic regulation and benefits

750 social security benefits (including SS disability payments)
751 other government benefit programs (e.g., welfare, RR retirement, veterans benefits, war risk insurance, food stamps)
754 federal consumer protection regulation (includes pure food and drug, false advertising)
755 rent control; excessive profits; government price controls
756 federal regulation of transportation
757 oil, gas, and mineral regulation by federal government
758 federal regulation of utilities (includes phone, radio, TV, power generation)
759 other commercial regulation (e.g., agriculture, independent regulatory agencies) by federal government
760 civil RICO suits
761 admiralty - personal injury (note: suits against government under admiralty should be classified under the government tort category above)
762 admiralty – seamans' wage disputes
763 admiralty - maritime contracts, charter contracts
764 admiralty other
752 state or local economic regulation (code for cases that are not pollution control)
765 state or local pollution control
753 federal environmental regulation (code for cases that are not pollution control)
766 federal pollution control

Property disputes

770 disputes over real property (private)
771 eminent domain and disputes with government over real property
772 landlord - tenant disputes

773 government seizure of property - as part of enforcement of criminal statutes
774 government seizure of property - civil (e.g., for delinquent taxes, liens)

Other economic activity
799 other economic activity

9. Summary issue category *MISCELLANEOUS* (includes immigration except for civil rights claims which are coded as 241)

901 miscellaneous interstate conflict
902 other federalism issue (only code as issue if opinion explicitly discusses federalism as an important issue, or if opinion explicitly discusses conflict of state power vs. federal power; code this category if preemption doctrine is an issue)
903 attorneys (disbarment, etc.)
904 selective service or draft issues (not 1st amendment challenges)
905 challenge to authority of magistrates, special masters, etc.
906 challenge to authority of bankruptcy judge or referees in bankruptcy
910 Indian law - criminal verdict challenged due to interpretation of tribal statutes or other Indian law
911 Indian law - commercial disputes based on interpretation of Indian treaties or law (includes disputes over mineral rights)
912 Indian law - indian claims acts and disputes over real property (includes Alaska Native Claims Act)
913 Indian law - federal regulation of Indian land and affairs
914 Indian law – state/local authority over Indian land and affairs
915 Indian law - tribal regulation of economic activities (includes tribal taxation)
916 other Indian law
920 international law
921 immigration (except civil rights claims of immigrants and aliens which are coded as 241)
922 Patriot Act
923 Other national security
924 14th Amendment – congressional power to enforce
925 executive privilege
999 other
000 not ascertained

IS IT A HABEAS CORPUS PETITION **("HABEAS**")

0=no
1=yes

CASE ABOUT SENTENCE OTHER THAN DEATH PENALTY ("**SENTENCE**")
Did the appeal raise an issue about the sentencing of a criminal defendant in federal court? (Does not include death penalty cases.)

0=no
1=yes

APPEAL INVOLVING DEATH PENALTY ("**DEATHPEN**")

0=no
1=yes

ISSUES RAISED IN MAJORITY OPINION'S REASONING

Note that these are coded differently than in earlier versions of the Songer database.

ISSUE OF CONSTITUTIONALITY DISCUSSED ("**CONSTIT**")

0=no
1=yes

DOES OPINION REQUIRE INTERPRETATION/CONSTRUCTION/APPLICATION OF FEDERAL STATUTE ("**FEDLAW**")

To apply, there must be a federal statute involved.

0=no
1=yes

DISPOSITION OF CASE TURNS ON A THRESHOLD ISSUE ("**THRESHOLD**")

Did the case turn on a threshold issue? That is, the court focused only on a procedural issue with no need to reach the "merits." For example, the appeal was not timely or the court did not have jurisdiction.

0=no
1=yes

DID COURT DECIDE WHETHER SUMMARY JUDGMENT IS APPROPRIATE? ("**SUMMARY**")

Did the court decide whether summary judgment was appropriate? (coded as no if trial court disposition was not in the form of summary judgment and/or issue is not discussed in reasoning)

0=no
1=yes

KEYTOTAL

Record the total number of key numbers in the opinion, based on the “headnotes” in WESTLAW (they are numbered so you only need to scan to find the last number).

Please see the Appendix for a list of directionality coding for each case type.
ISSUE #1 OUTCOME (“**DIRECT1**”).

This field reports the directionality of the decision of the court in terms of who wins and who loses with respect to the first coded case type (“primary issue”/**CASETYP1**) from the Issues section. If the Issues section is coded, you will see reminders as to what was already coded as the General Issue, the primary issue, and the secondary issue (if there was one).

For all categories, a "2" was coded if the directionality of the decision was intermediate to the extremes defined above, or if the decision was mixed (e.g., the conviction of defendant in a criminal trial was affirmed on one count but reversed on a second count or if the conviction was affirmed but the sentence was reduced.) A "0" indicates that the directionality was not ascertained.

When a case has two distinct issues, evaluate each one separately in terms of the outcome. For instance, a decision in favor of the plaintiff on a race claim but the defendant on an age discrimination claim should NOT be coded as mixed. Rather, the outcome for each issue should be coded separately (here, a 3/pro-plaintiff for the race claim and 1/pro-defendant on the age claim). This is also true for criminal cases with separate charges. For instance, a defendant is convicted on an aggravated assault charge and a narcotics charge, and on appeal, the conviction is affirmed, but there was a problem with the quantity calculated for the sentence associated with the narcotics charge. The aggravated assault issue code will be a "1" (for the prosecution) but the narcotics issue code will be a "2” (because it is mixed).

* Note: Users of the database may easily develop their alternative definitions of liberal, conservative, etc., by simply recoding whichever issue categories they choose or by excluding certain issue categories altogether.

ISSUE #2 OUTCOME (“**DIRECT2**”)

This field reports the directionality of the decision of the court in terms of who wins and who loses with respect to the second coded case type (“secondary issue”) from the Issues section. If the Issues section is already coded, you will see reminders as to what was already coded as the General Issue, the primary issue, and the secondary issue.

JUDGES AND VOTES

Number of **MAJVOTES**

DISSENT – flagged 1 if nonunanimous decision
CONCUR – flagged 1 if separate concurring opinion filed.

("**CODEJ1**")

For each case, coders consulted a list of all federal judges downloaded from the FJC in 2017. While most of these are active and senior judges who sit in that circuit, in many instances, judges were sitting by designation. CODEJ1 is the identification code for the judge who wrote the majority opinion or the first listed on opinion. In per curiam decisions, select the first listed judge in the opinion as Judge 1. Please note that these codes are **NOT** the same codes that were used in earlier versions of the Songer Multi-User database. A separate excel spreadsheet includes a list of the codes and names used for each judge in the dataset. This list represents all federal judges who were living during the time period, downloaded from the FJC in 2018, along with background information (also provided by the FJC).

("**CODEJ2**")

Identification code for the second listed judge on the panel.

("**CODEJ**3")

Identification code for the third listed judge on the panel.

("**CODEJ4" – "CODEJ15**")

These are identification codes for additional judges in cases that were decided en banc.

NUMBER OF JUDGES – number of USCA judges who participated in the decision. Most cases were decided by three-judge panels.

"**J1MAJ1**"…."**J15MAJ1**"

The variable indicates whether the judge was in the majority on the first issue. If so, it is coded 1. If the judge dissented, it is coded "2"; if the judge concurred separately, it is coded "3". If the judge's vote/opinion did not fall into any of these categories, it is coded "9". J1 represents the opinion author (if a signed opinion). Because no case had more than 15 judges who participated, this does not go beyond J15.

"**J1MAJ2**"…."**J15MAJ2**"

The variable indicates whether the judge was in the majority or joined a separate opinion on the second issue. J1 represents the opinion author (if a signed opinion). Because no case had more than 15 judges who participated, this does not go beyond J15.

"**J1VOTE1**"…."**J15VOTE1**"
This variable measures the judge's vote on casetyp1 in terms of the policy outcome (see explanation of DIRECT1)

"**J1VOTE2**"…."**J15VOTE2**"
This variable measures the judge's vote on casetyp2 in terms of the policy outcome (see explanation of DIRECT2)

Appendix – list for DIRECT and outcomes for JVOTE by issue area.

Coding rules are identical to those conventions adopted in the existing Multi-User Database. Overall, outcomes are coded to reflect which party won, in a particular issue area. The directionality coding does not impose any definition of "liberal", "conservative", or any other ideological label on any user.

Users may easily develop their alternative definitions of liberal, conservative, etc., by simply recoding whichever issue categories they choose or by excluding certain issue categories altogether.

For all categories, a "2" was coded if the directionality of the decision was intermediate to the extremes defined above or if the decision was mixed (e.g., the conviction of defendant in a criminal trial was affirmed on one count but reversed on a second count or if the conviction was affirmed but the sentence was reduced. A "0" indicates that the directionality was not ascertained.

CRIMINAL AND PRISONER PETITIONS

101 - 158 criminal

3=for the defendant

1=opposite

CIVIL RIGHTS

201- 209 prisoner petitions

3=for the position of the prisoner

1=opposite

210 -212 voting rights

3=for those who claim their voting rights have been violated

1=opposite

213, 214 desegregation

3=for desegregation or for the most extensive desegregation if alternative plans are at issue

1= opposite

223, 224, 234, 235 reverse discrimination claims

3=for the rights of the racial minority or women (i.e., opposing the claim of discrimination)

1=opposite

All other civil rights:

3=upholding the position of the person asserting the denial of their rights

1=opposite

FIRST AMENDMENT

301 - 399 (all first amendment cases)

3=for assertion of broadest interpretation of First Amendment protection

1=opposite

DUE PROCESS

410 - 499 (all due process cases)

3=for interest of person asserting due process rights violated

1=opposite

PRIVACY

501 - 599 (all privacy cases)

3= for interest of person asserting privacy rights violated

1= opposite

LABOR

Suits against management

3= for union, individual worker, or government in suit against management

1= opposite (i.e., for management)

Government enforcement of labor laws

3=for the federal government or the validity of federal regulations

1=opposite

Executive branch versus union or workers

3=for executive branch

1=for union

Worker vs union (non-civil rights)

3=for union

1=for individual worker

Conflicts between rival unions

3=for union which opposed by management

1=for union which supported by management

0=if neither union supported by management or if unclear

Injured workers or consumers vs management

3=against management

1=for management

Other labor issues

3=for economic underdog if no civil rights issue is present; for support of person claiming denial of civil rights

1=opposite

0=unclear

ECONOMIC ACTIVITY AND REGULATION

701 - 707 Taxes

3= for government tax claim

1= opposite (for taxpayer)

710-713 patents and copyrights, etc.

3= for person claiming patent or copyright infringement

1= opposite

720 - 730 torts

3= for the plaintiff alleging the injury

1 = opposite

731- 740 commercial disputes (private parties)

3= for economic underdog if one party is clearly an underdog in comparison to the other

1=opposite

0=neither party is clearly an economic underdog

(Note: in cases pitting an individual against a business, the individual is presumed to be the economic underdog unless there is a clear indication in the opinion to the contrary)

741 - 743 bankruptcy

3=for debtor or bankrupt

1=opposite

744 -746 antitrust, mergers

3= for government or private party raising claim of violation of antitrust laws, or party opposing merger

1=opposite

747 private conflict over securities

3=for the economic underdog

1=opposite

0=no clear economic underdog

750 - 751 individual benefits

3=for individual claiming a benefit from government

1=for the government disputes over government contracts and government seizure of property

Government regulation of business (except 753,754)

3=for government regulation

1=opposite

753, 754, environment (includes pollution) and consumer protection

3=for greater protection of the environment or greater consumer protection (even if anti-government)

1=opposite

761 admiralty - personal injury

3 = for the injured party

1 = opposite

762- 764, 790 admiralty and miscellaneous economic cases

3=for economic underdog

1=opposite

0=if no clear underdog

MISCELLANEOUS

902 federalism

3=for assertion of federal power

1=opposite

901 conflict between states

0=for all decisions

903 attorneys

3=for attorney

1=opposite

904 selective service

3=for the validity of challenged selective service regulation or for the government interest in dispute with someone attempting to resist induction

1=opposite

905,906 challenge to magistrates or referees

3=for the authority of the challenged official

1=opposite

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[replaces 5.28.21 version]

910 Indian law - criminal
3 = for defendant
1 = opposite

911,912 Indian law
3 = for the claim of the Indian or tribal rights
1 = opposite

913,914 Indian law vs state and federal authority
3 = for federal or state authority
1 = opposite

915 Indian law
3 = for tribal regulation
1 = other

920 international law
3 = for interest of US or US firms when opposed by foreign firms or government; for US government if opposed to either US or foreign business
1 = opposite
0 = other

921 immigration
3 = for government regulation
1 = other

922 Patriot Act and 923 Other national security
3=for government
1=other

924
3=for position that gives power to Congress to enforce
1= against that position

925
3=pro executive position
1=against executive privilege

999, 000 other, not ascertained
0=for all decisions