Codebook Final Version
Shepardized Courts of Appeals Database

Introduction:

The original Courts of Appeals database (SES-8912678) consists of a random sample of cases from 1925 through 1988. For the first set of years, 1925 though 1960, fifteen cases per circuit per year were randomly selected for inclusion in the database; for the years 1961 though 1988 thirty cases per circuit per year were included yielding an initial database of over 15,000 cases. For each case, codes were included that describe the basic case characteristics including information about the lower court and its ruling, the appellate court ruling, the number of dissents and concurrences, and the nature of the appeal. The number and type of participants in the case are also coded in great detail. Following the United States Supreme Court database, the Courts of Appeals database also includes a detailed coding of the issues involved in each case, case outcomes, and a record of the votes of each participating judge. With support from the National Science Foundation, the database was updated to include the years 1989 through 1996 (SES 9602172), and then again updated through 2002 (SES-0318349). In the interim period between the creation of the initial Courts of Appeals database and the present, several updates to the United States Supreme Court database (SES-8313773) have also occurred.

The purpose of this small addition to the Courts of Appeals dataset is to provide a bridge between these two resources. The Courts of Appeals database has some information on the decision by the lower court or agency. The Supreme Court database contains information on the ideological direction of the lower court decision. However, there was, up till now, no easy way to connect the information from the two databases. More importantly, from the Supreme Court database we had information on cases from the Courts of Appeals that were accepted, but we lacked hard data on the rate of appeal. This database also remedies the lacunae. The Shepardized Courts of Appeals database includes subsequent appellate information on all cases included in the original Courts of Appeals database, including petitions for rehearing *en banc* and petitions for certiorari, regardless of outcome. If a case received a grant of certiorari, the citation variables used by Spaeth et al in the United States Supreme Court database is included for easy merging of the three databases (COA, Shepardized, SCOTUS).

Structure of the Database

The structure of the database will remain largely the same with the case remaining the level of analysis.[1] In most instances, this project will simply add several columns to the

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[1] In the parlance of the U.S. Supreme Court database, the record is the unit of analysis.

current dataset. These columns, as described in detail below, include variables indicating if an appeal was initiated, the type of appeal (rehearing requested, en banc, petition for certiorari, or petition for a writ of appeal), and the result.[2] Additional columns are added, as necessary, for further appeals. Columns are also added to include the U.S. and lawyers edition citations and the docket number following the format of the U.S. Supreme Court database including the important ANALU variable, and final results from the United States Supreme Court. For scholars who do not need the additional variables available in the Supreme Court database, all the information can be obtain by merging the Courts of Appeals database and the Shepardized database. In other words, the merged database will have information on the final outcome of all three levels of the federal court system (District, Court of Appeals, and Supreme Court) within one database.

Below, we provide a description of each variable and present reliability statistics as well. Please note, we did err on the side of inclusiveness when coding subsequent appellate activity. The phrase "better too much than not enough" was used often in our meetings.

Reliability:
A random sample of 1018 cases was selected from the entire Court of Appeals dataset (20355 cases) and were independently coded. This sample was compared to the coding of the original set to generate reliability statistics, including a simple rate of intercoder agreement, gamma, and Kendall's tau-b. These are the same statistics reported in the original Court of Appeals database.

Existing/Modified Variables from Court of Appeals Database

1. CASENUM
    5 columns wide
    numeric

Shows the casenumber from the Court of Appeals database for the purposes of merging data. CASENUM ranges from 1 to 18195 and 20001 to 22160.

2. CITE
    9 columns wide
    alphanumeric

Shows exact copy of the CITE variable from the Court of Appeals database. Not available for cases 200101-22160.

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[2] The Courts of Appeals database already records whether the sampled case is a rehearing by the same panel, a rehearing after a remand from the U.S. Supreme Court, a rehearing after remand to the District Court, etc. This information is found in the method variable.

3. CITATION

      14 columns wide
      alphanumeric

Shows the CITE variable from the Court of Appeals database, but modified to allow quick Shepardization in LexisNexis.

   Example: 0842 f 2d 0556 (Refers to volume 842, page 556 of the federal reporter second edition).

New Variables

1. APPEAL

      3 columns wide
      numeric

_____

Reliability:
      Rate of Intercoder Agreement: 96.1%
      Gamma: .98
      Kendall's Tau-b: .94

_____

Shows existence and type of subsequent appellate and/or case history, as Shepardized by LexisNexis.

  0 = No subsequent appellate history
  1 = Subsequent appellate history
  2 = Same case
  3 = Connected case, related proceeding or companion case
  4 = Later case, later proceeding, or subsequent appeal
  5 = Question certified to lower court
 12 = Subsequent appellate history and same case
 13 = Subsequent appellate history and connected case
 14 = Subsequent appellate history and later case/later proceeding
 23 = Same case and connected case
 34 = Connected case and later case
123 = Subsequent appellate history, same case, and connected case
134 = Subsequent appellate history, connected case, and later case

The terms used by Shepard's citations are not immediately distinguishable. We contacted an associate professor (Valery King) at Oregon State University's Valley library. She did yeoman's service for several weeks trying to get a clarification from a product manager at LexisNexis Academic. The response indicated that the definitions provided for "same case" or "connected case" online were, indeed, less than clear.

After speaking with a legal research advisor, the following clarification was sent to us via email on September 11, 2008. "..the connected cases were in a single jurisdiction, with the same parties and subject matter, but with different docket numbers. The same cases were in different jurisdictions, but again with the same parties and subject matter. Based on this, it seems that the connected cases have a procedural connection that does not fit in the standard categories and the same cases do not have any formal connection. These classification are somewhat vague and are assigned by our editors based on their judgement." As researchers utilize these categories, care should be taken given the lack of hard criteria for coding used by Shepard's.

2. SUBHIST
        4 columns wide
        numeric

_____
Reliability:
        Rate of Intercoder Agreement: 95.1%
        Gamma: .92
        Kendall's Tau-b: .89
_____

Shows type of subsequent appellate history, if applicable.

   1 = Petition for panel rehearing
   2 = Petition for rehearing en banc
   3 = Petition for cert
   4 = Writ of appeal
   5 = Appeal, cert petition or request for rehearing after remand
   6 = Petitions for cert and SC rehearing
   7 = Writ of appeal and SC rehearing
  12 = Petitions for panel rehearing and rehearing en banc
  13 = Petitions for panel rehearing and cert
  14 = Petition for panel rehearing and writ of appeal
  15 = Petition for panel rehearing + 5
  16 = Petitions for panel rehearing, cert, and SC rehearing
  23 = Petitions for rehearing en banc and cert
  24 = Petition for rehearing en banc and writ of appeal
  25 = Petition for rehearing en banc + 5
  26 = Petitions for rehearing en banc, cert, and SC rehearing
  35 = Petition for cert + 5
  65 = Petitions for cert, SC rehearing + 5
 123 = Petitions for panel rehearing, en banc, and cert
 124 = Petitions for panel rehearing, en banc, and writ of appeal
 125 = Petitions for panel rehearing, en banc, + 5

126 = Petitions for panel rehearing, en banc, cert, and SC rehearing
135 = Petitions for panel rehearing, cert + 5
235 = Petitions for rehearing en banc, cert, + 5
1235 = Petitions for panel rehearing, en banc, cert + 5
1265 = Petitions for panel rehearing, en banc, cert, SC rehearing + 5
999 = Other

3. COAREHEAR
      1 column wide
      numeric

_____
      Reliability:
            Rate of Intercoder Agreement: 98.6%
            Gamma: 1.0
            Kendall's Tau-b: .94
_____

Shows result of request for panel rehearing at the Court of Appeals.

   0 = No request for rehearing
   1 = Request for rehearing denied
   2 = Request for rehearing granted, same result
   3 = Request for rehearing granted, different result
   4 = No request for rehearing, decision modified
   5 = Request for rehearing denied, decision modified
   6 = No request for rehearing, decision withdrawn or vacated
   7 = Request for rehearing granted, unknown result

4. COAENBANC
      1 column wide
      numeric

_____
      Reliability:
            Rate of Intercoder Agreement: 97.2%
            Gamma: .99
            Kendall's Tau-b: .89
_____

Shows result of request for rehearing en banc at the Court of Appeals.

   0 = No request for rehearing en banc
   1 = Request for rehearing en banc denied

2 = Request for rehearing en banc granted, same result
3 = Request for rehearing en banc granted, different result
4 = Request for rehearing en banc granted, unknown result
5 = Request for rehearing en banc granted, appeal dismissed

5. SCAPPEAL
   2 columns wide
   numeric

   _____
   Reliability:
           Rate of Intercoder Agreement: 98.6%
           Gamma: .99
           Kendall's Tau-b: .97
   _____

Shows whether an appeal was made to the US Supreme Court and whether the court accepted the case.

   0 = No appeal request made to the US Supreme Court
   1 = Petition for writ of certiorari denied
   2 = Petition for writ of certiorari dismissed
   3 = Petition for writ of certiorari granted
   4 = Writ of appeal dismissed
   5 = Writ of appeal granted
   6 = Other
   12 = Petitions for writ of certiorari denied and dismissed

6. SCRESULT
   2 columns wide
   numeric

   _____
   Reliability:
           Rate of Intercoder Agreement: 99.3%
           Gamma: .99
           Kendall's Tau-b: .96
   _____

If case was accepted, shows Supreme Court decision. SCRESULT is usually identical to the DIS1 variable from the U.S. Supreme Court Database; however, if we disagreed with the Supreme Court Database's coding of the outcome, we kept our coding.

   99 = No appeal request made, or SC refused case

0 = Stay, petition, or motion granted
1 = Affirmed
2 = Reversed
3 = Reversed and remanded
4 = Vacated and remanded
5 = Affirmed in part and reversed in part (or modified)
6 = 5 + remanded
7 = Vacated
8 = Appeal dismissed or petition denied
9 = Certification to a lower court

7. SCREHEAR
    1 column wide
    numeric

_____
Reliability:
        Rate of Intercoder Agreement: 99.7%
        Gamma: 1.0
        Kendall's Tau-b: .97
_____

Shows request for Supreme Court rehearing and result.

0 = No request for SC rehearing
1 = Petition for SC rehearing denied
2 = Petition for SC rehearing granted, same result
3 = Petition for SC rehearing granted, different result
4 = Other

8. APPAFTRE1
    2 columns wide
    numeric

_____
Reliability:
        Rate of Intercoder Agreement: 99.0%
        Gamma: .99
        Kendall's Tau-b: .94
_____

Shows requests for appeal, certiorari, or rehearing AFTER remand from COA or SC with result, if applicable.

0 = No appeal or petitions for cert or rehearing after remand

1 = Appeal to COA after remand, affirmed (or affirmed + remanded)
2 = Appeal to COA after remand, reversed (or reversed + remanded)
3 = Appeal to COA after remand, vacated (or vacated + remanded)
4 = Appeal to COA after remand, modified (or modified + remanded)
5 = Cert denied or dismissed after remand
6 = Cert granted after remand, affirmed
7 = Cert granted after remand, reversed (or reversed + remanded)
8 = Cert granted after remand, vacated (or vacated + remanded)
9 = Cert granted after remand, modified (or modified + remanded)
10 = Rehearing (panel, en banc, or SC) denied after remand
11 = Appeal to COA after remand, remanded
12 = Appeal to COA after remand, other
13 = Rehearing (panel, en banc, or SC) granted, different result
14 = Writ of appeal granted by SC after remand, reversed
15 = Rehearing (panel, en banc, or SC) granted, same result
16 = Appeal to COA after remand, decision unknown
17 = Rehearing (panel, en banc, or SC) granted, unknown result

9. APPAFTRE2
    2 columns wide
    numeric

_____
Reliability:
    Rate of Intercoder Agreement: 99.3%
    Gamma: .99
    Kendall's Tau-b: .83
_____

Shows subsequent history after the appeal after remand. Codes are same as APPAFTRE1.

10. APPAFTRE3
    2 columns wide
    numeric

_____
Reliability:
    Rate of Intercoder Agreement: 99.7%
    Gamma: n/a
    Kendall's Tau-b: n/a
_____

Shows subsequent history after the appeal after remand. Codes are same as APPAFTRE1.

11. APPAFTRE4 and APPAFTRE5
    2 columns wide
    numeric

Reliability:
    Rate of Intercoder Agreement: n/a
    Gamma: n/a
    Kendall's Tau-b: n/a

Shows subsequent history after the appeal after remand. Codes are same as APPAFTRE1.

Existing Variables from Supreme Court Database

If there is a Supreme Court case – or two – in the subsequent history of the COA record, the following Supreme Court database variables have been duplicated for the purpose of data merging and convenience.

US1, SCT1, LED1, etc. refer to a Supreme Court appeal immediately after the cited case. Because the Supreme Court database does not use the same unit of analysis as the Court of Appeals database, there are sometimes more than one record for each Supreme Court case. US2, SCT2, LED2, etc. may include one of these additional records, in which case all variables will be identical except for ANALU.

Alternatively, US2, SCT2, LED2, etc., may include a reference to a Supreme Court case that occurred after a remand (Cert granted after remand). In the event that the cited case is not appealed to and accepted by the Supreme Court but the case reaches the Supreme Court after remand, the first set of SC columns will be blank while the second set will contain case data.

In some cases where cert is granted there is no information from the Supreme Court Database. The Supreme Court Database does not include any cases before October 1953. It also omits records for many short decisions where the court reversed and remanded the case without discussion, often citing another recent Supreme Court decision that is relevant to the case and is to be considered on remand.

1. US1

Shows the U.S. Edition Citation from the U.S. Supreme Court Database.

    Example: 346/0325

2. SCT1

Shows the Supreme Court Citation from the U.S. Supreme Court Database.

   Example: 074/0151

3. LED1

Shows the Lawyer's Edition Citation from the U.S. Supreme Court Database.

   Example: 098/0003

4. DOCKET1

Shows the Docket Number from the U.S. Supreme Court Database.

   Example: 109

5. DIS1

Shows the decision outcome from the U.S. Supreme Court Database. In most cases, this is the same as SCRESULT.

        0 = stay, petition, or motion granted
        1 = affirmed
        2 = reversed
        3 = reversed and remanded
        4 = vacated and remanded
        5 = affirmed and remanded (or vacated) in part
        6 = 5 + remanded
        7 = vacated
        8 = petition denied or appeal dismissed
        9 = certified to lower court

6. ANALU1

Shows whether there are multiple records for this decision in the U.S. Supreme Court database.

        0 = case citation
        1 = docket number
        2 = multiple issue case
        3 = cases containing multiple legal provisions
        4 = split vote case
        5 = case with multiple issues and multiple legal provisions

7. US2
8. SCT2
9. LED2
10. DOCKET2
11. DIS2
12. ANALU2

Same as above.

Collapsed Variables

1. APPEALSHORT

    Shows occurrence of subsequent appellate or case history.

    0=No subsequent appellate history
    1=Subsequent appellate history

2. COAREHEARSHORT

    Shows result of request for panel rehearing at the Court of Appeals.

    0= No request for rehearing
    1= Request for rehearing denied
    2= Request for rehearing granted

3. COAENBANCSHORT

    Shows outcome of an en banc rehearing.

    1= Same result
    2= Different result
    3= Unknown Result

4. PETFORENBANC

    Of the subset of cases with subsequent appellate history, was there a petition for
    rehearing en banc.

    1= Yes
    2= No

5. SCAPPEALSHORT

    Of the subset of cases with subsequent appellate history, was there an appeal to the
    U.S. Supreme Court

    0= No Appeal

1= Appealed to Supreme Court

6. SCAPPEALRESULT

   Of the subset of cases that appealed to the U.S. Supreme Court, shows the result of the petition for cert or writ of appeal.

   0= Denied
   1= Granted

7. APPAFTRE1SHORT

   After remand, was there a request for rehearing or cert

   0= No Request
   1= Request made

8. ENBANCRESULT

   Of cases who's requests for en banc rehearing were granted, shows results.

   0= Same result
   1= Different result
   2= Unknown result

9. COAENBANCHSHORT2

   Shows result of cases that that appealed for en banc rehearing

   1= En banc denied
   2= En banc granted

10. APPFEDSHORT

   Was a Federal agency a litigant in a case?

   0=No
   1= Yes

11. APPSTATESHORT

   Was a State Agency a litigant in a case?

   0= No
   1= Yes

12. FIRST

   Was the First Amendment the most cited constitutional provision in the headnotes?

13.FOURTH

Was the Fourth Amendment the most cited constitutional provision in the headnotes?

14. FIFTH

Was the Fifth Amendment the most cited constitutional provision in the headnotes?

15. SIXTH

Was the Sixth Amendment the most cited constitutional provision in the headnotes?

16. FOURTEENTH

Was the Fourteenth Amendment the most cited constitutional provision in the headnotes?

17.CRIMPET

Shows criminal and prisoner petition cases.

18. CIVGOV

Shows civil vs. government cases.

19.DIVERSITY

Shows diversity of citizenship cases.

20. CIVPRIV

Shows civil vs. private cases.