

# PLSC 476: Empirical Legal Studies

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# Courts and Public Opinion

## The Case *Against* Influence

- Institutional Factors (tenure, etc.)
- Constitutional Constraints
- Judicial Norms
- Demographic Differences
- Diffuse Signals

# Courts and Public Opinion

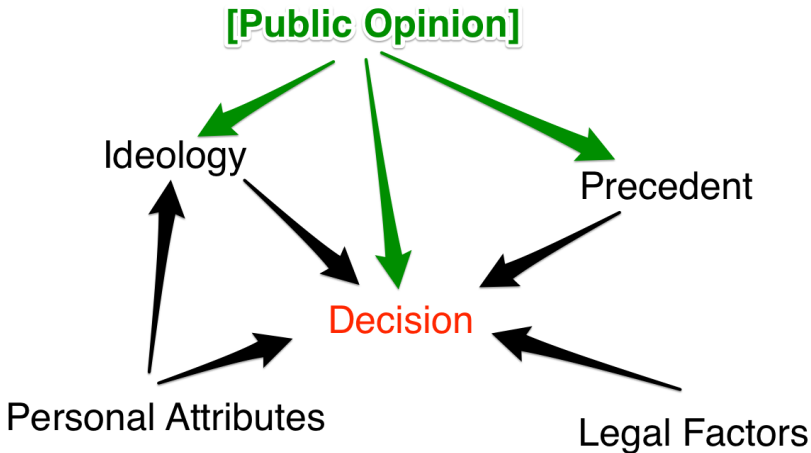
## The Case *For* Influence

- Judges Are Human Too
- Enforcement / Implementation
- Institutional Legitimacy
- Indirect / Remote Constraints

# Courts and Public Opinion: Challenges

- Measurement
  - Who's Opinion?
  - On What?
  - When?
- Causal Path?
- “All Else Equal”

# Judicial Decision-Making (So Far)



# McGuire and Stimson (2004)

- Outcome: **Aggregate Court Liberalism**, by Term (1953-1996)
- Three Issue Areas
  - Criminal Procedure
  - Civil Rights and Liberties
  - Economics
- Only in Cases where the Court Reversed
- Predictor: Stimson's (1999) **Public Mood** indicator
  - Aggregation of public opinion survey responses
  - Created in 1991; currently available 1952-2018
  - A non-technical description is [here](#)

## Findings:

- *Positive* associations between “mood” and SCOTUS voting
  - Criminal Procedure = 0.71
  - Civil Rights and Liberties = 0.78
  - Economics = 0.52
- Also related to a “latent” Court Liberalism measure

# Replicating McGuire and Stimson (1952-2018)

Data sources:

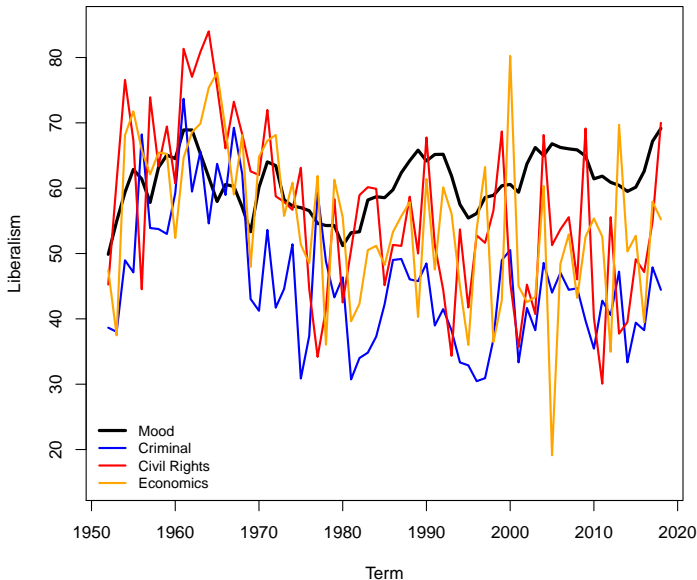
- Supreme Court Database for justices' votes
- Segal-Cover ideology measures
- Stimson's *Public Mood Database*

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> summary(TSData)
```

term	Mood	SegalCover	CrimLibPct	CLLibPct	EconLibPct
Min. :1952	Min. :49.9	Min. :25.2	Min. :30.5	Min. :30.1	Min. :19.1
1st Qu.:1968	1st Qu.:57.9	1st Qu.:31.9	1st Qu.:38.3	1st Qu.:45.4	1st Qu.:47.5
Median :1985	Median :60.6	Median :41.0	Median :44.4	Median :55.6	Median :55.2
Mean :1985	Mean :60.7	Mean :47.7	Mean :45.7	Mean :56.2	Mean :54.7
3rd Qu.:2002	3rd Qu.:64.4	3rd Qu.:67.2	3rd Qu.:49.8	3rd Qu.:66.7	3rd Qu.:64.0
Max. :2018	Max. :69.1	Max. :83.1	Max. :73.7	Max. :84.0	Max. :80.2



# Replicating McGuire and Stimson (1952-2018)

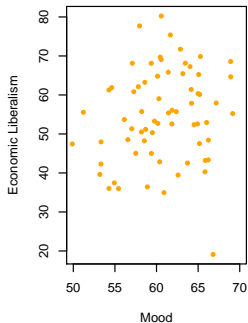
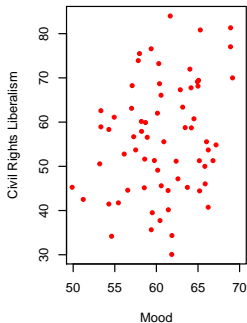
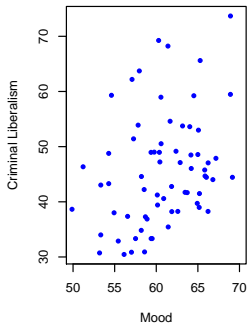


# Correlations

```
> cor(TSData)
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	term	Mood	SegalCover	CrimLibPct	CLLibPct	EconLibPct
term	1.000	0.2786	-0.8012	-0.495	-0.504	-0.415
Mood	0.279	1.0000	-0.0879	0.307	0.249	0.149
SegalCover	-0.801	-0.0879	1.0000	0.665	0.595	0.500
CrimLibPct	-0.495	0.3075	0.6649	1.000	0.497	0.560
CLLibPct	-0.504	0.2494	0.5948	0.497	1.000	0.429
EconLibPct	-0.415	0.1494	0.4997	0.560	0.429	1.000

# Public Mood and Supreme Court Liberalism



# Control Variables

- Previous decisions / precedent → “lagged” dependent variable
- Justices’ ideology → aggregated “Segal-Cover” scores

# Regression Results

	<i>Dependent variable:</i>		
	Criminal (1)	Civil Liberties (2)	Economics (3)
Constant	-19.800 (11.900)	-12.200 (17.500)	15.100 (19.000)
Lagged Criminal	0.169 (0.112)		
Lagged Civil Liberties		0.081 (0.123)	
Lagged Economics			-0.110 (0.122)
Court Liberalism (Segal-Cover)	0.347*** (0.065)	0.437*** (0.090)	0.405*** (0.085)
Mood	0.680*** (0.198)	0.711** (0.292)	0.435 (0.294)
Observations	66	66	66
R <sup>2</sup>	0.597	0.457	0.303
Adjusted R <sup>2</sup>	0.577	0.431	0.269
Residual Std. Error (df = 62)	6.560	9.680	10.200
F Statistic (df = 3; 62)	30.600***	17.400***	8.990***

Note:

\* p<0.1; \*\* p<0.05; \*\*\* p<0.01

# Summary of Findings

- We find evidence of public opinion's influence on Supreme Court behavior in *criminal procedure* and *civil rights/liberties* cases...
- ...after controlling for (a) recent previous decisions and (b) overall Court ideology
- Effect sizes:
  - All else equal, a ten-point increase in *Public Mood* liberalism is associated with an expected **6.8** percentage-point increase in the extent of liberal SCOTUS voting in criminal procedure cases
  - All else equal, a ten-point increase in *Public Mood* liberalism is associated with an expected **7.1** percentage-point increase in the extent of liberal SCOTUS voting in civil rights and liberties cases
- We find no evidence of public opinion's influence in cases involving *economic* issues