

THE *Pioneers* OF  
*Judicial Behavior*

Edited by Nancy Maveety

THE UNIVERSITY OF MICHIGAN PRESS  
*Ann Arbor*

## CHAPTER 7

*Beverly Blair Cook: The Value of Eclecticism*

Lee Epstein and Lynn Mather

At a roundtable held in her honor, Beverly Blair Cook remarked that a “scientist who receives a prize has a conventional modest disclaimer—‘I am standing on the shoulders of giants.’ My response to being honored by this panel is to point to two lines of predecessors on whose scholarship I have tried to build. One is a line of male giants; the other a line of female ghosts.”<sup>1</sup> She went on to describe the contributions of three of those “ghosts,” Sophonisba Breckinridge, Alice Paul, and Charlotte Williams.

To be sure, Cook is right: several women have contributed mightily to the study of law and courts yet largely been ignored or, at best, underappreciated. At the same time, however, Cook’s comments are characteristically modest. For the extensive and significant scholarship of Beverly Blair Cook—not of Breckinridge, Paul, or Williams—paved the way for women in the field of law and courts. No account of the emergence of judicial behavior within the discipline of political science would be complete without a reckoning of her contributions.

COOK’S CAREER DEVELOPMENT:  
A THUMBNAIL SKETCH

Cook’s progression in the professional world of political science was, like many women of her generation, something short of linear. After receiving a B.A. (with high honors) from Wellesley College in 1948 and a M.A. from University of Wisconsin at Madison in 1949, she served as an instructor of political science at Iowa State University in 1949–50. She then exchanged teaching for family responsibilities, marrying and staying home and rearing four children.

In 1960, she resumed her graduate work at Claremont University and Graduate School, receiving her Ph.D. from Claremont in 1962. Cook then took an assistant professorship at California State University at Fullerton, where she gained tenure in 1966. In that same year, she met Neil Cotter, another political scientist, at a NSF summer seminar at Virginia Polytechnic Institute; they married five weeks later.

In 1967, Cook, Cotter, and their combined brood of eight moved to the University of Wisconsin at Milwaukee. At first, it seemed that Cook and her husband would be unable to work together in the department of political science. The university told her that its nepotism rule barred married couples from obtaining tenure in the same department, so Cook transferred to the School of Social Welfare for a year, “while [she] helped the university discover that the rule was unwritten and in any case contradicted federal law” (Cook 1994b, 80). With that matter resolved, she moved back to the political science department, where she would produce some of her most important work and where she would remain until her retirement in 1989.

To term Cook retired, though, is something of a misnomer. From her home in Atascadero, California, she continues to write at an astonishing pace. Her essays in the 1990s have offered a measure of significant U.S. Supreme Court decisions (1993), commented on the Court’s agenda (1994a), considered opinion assignment on the Burger Court (1995), analyzed the decision of Justice Blackmun (1996), and presented biographies of important women judges (Cook 1998). In her latest work, to be published in *Judicature*, she applied “fuzzy logic” to the Supreme Court’s legal language (Cook forthcoming). Her service to the profession also continues. Over the past decade or so, Cook served on Project ‘87, the joint American Historical Association–American Political Science Association (APSA) Committee on the Bicentennial of the Constitution. More recently, she was elected to the executive committee of the APSA’s Law and Courts section.

TOWARD THE STUDY OF  
JUDICIAL BEHAVIOR: SOME  
CONTEXTUAL NOTES

At the time Cook was studying for her Ph.D., an intellectual struggle of sorts was ensuing in the field of “public law,” as it was then called in political science. The traditional approach to law and courts centered on judicial opinions and appellate court doctrine. Scholars such as Edward Corwin and Robertushman Nabors drew on history, political theory, and constitutional law to scrutinize and parse Supreme Court opinions. Others, however, including Jack Peltason and Victor Rosenblum, rejected the centrality of legal doctrine, emphasizing instead the process by which law emerges from and reflects political forces. Martin M. Shapiro summarized the essence of this new “political jurisprudence” as “a vision of courts as political agencies and judges as political actors” (1964b, 297).

Viewing judges as political actors led judicial scholars to apply the latest techniques and theories of political science to the study of courts and judicial decision making. The behavioral revolution in political science during this period thus provided a further challenge to traditional legal approaches by introducing scientific ways of studying judicial behavior and legal phenomena. C. Herman Pritchett pioneered the study of judicial behavior beginning in the 1940s with a firm rejection of traditionalists' exclusive focus on legal doctrine. Pritchett's classic *American Political Science Review* article (1941) examined justices' voting patterns in an attempt to understand systematically their divisions of opinion. He subsequently published several influential studies of the Roosevelt and Vinson Courts (for example, Pritchett 1948, 1954).

This intellectual engagement was perhaps in its most heated stage during the 1960s, when Cook was beginning her scholarship in the field. Important journals published acrimonious debates between proponents of traditional legal perspectives, political approaches, and scientific approaches (Shapiro 1964b; Kort 1964; Mendelson 1964a, 1964b, 1966; Spaeth 1965). Articles such as Schubert's (1967) delineated the key players and their views of the field of judicial behavior. And seminal books, such as Walter F. Murphy's *Elements of Judicial Strategy* (1964), Glendon A. Schubert's *The Judicial Mind* (1965), and Martin M. Shapiro's *Law and Politics in the Supreme Court* (1965a) were published.

Thomas G. Walker (1994) documents how firmly research on judicial politics established itself in the discipline. Walker found that in 1964, for the first time, judicial process articles outnumbered constitutional law pieces in three influential political science journals, and this trend continues today.<sup>2</sup> He also noted that theoretical innovation exploded, with attitude theory, systems theory, social background theory, role theory, fact pattern analysis, game theory, incrementalism, and others used in attempts to explain courts and judicial behavior.

#### COOK'S MAJOR SCHOLARLY CONTRIBUTIONS

Although Cook was not initially part of this heyday, she became a major player during the 1970s. Part of the explanation for her ascendancy lies in the enormous breadth of her research program. We see hints of this in her first book, *The Judicial Process in California* (1967), in which she set out themes that she would revisit in subsequent projects. In this work she demonstrated that the judicial process was an essential part of the political process, that political party of judges was directly

related to judicial selection, that judges' identity (background, age, race, gender, and class) mattered, that trial court and appellate court judges were important judicial actors, and that a complete understanding of courts necessitated consideration of participants other than judges—lawyers, interest groups, police, and litigants.

Cook also became known for the many different methodological approaches she used in her scholarship. She has always allowed the nature of the problem to dictate the methodology employed. Included in her research on judges are comparative analyses of individuals and of courts across different locations and different time periods. She has drawn on case studies, legal doctrine, personal interviews, judicial biographies and memoirs, broad surveys, historical data, and quantitative statistical data. Cook also has done what too few of us do in our research: she has reexamined primary data collected by others to generate new ideas for analyzing issues.

In short, Cook's earliest research shows the importance of asking interesting questions, thinking theoretically, invoking a wide range of sources, and rigorously and sensitively analyzing data. These traits continued to characterize her later work, but her horizons grew substantially. Over the past three decades, she has skillfully explored questions involving criminal sentencing, judicial administration, and decision making, among many others. Some of these studies rest on careful description and empirical analysis, others explore policy issues and questions of reform, and still others are highly theoretical. She also has demonstrated the usefulness of borrowing from other scholarly literatures—psychology, anthropology, social history, criminal justice, and even biology—to improve our understanding of courts and judges.

So great is its diversity that Cook's work cannot be characterized in a single phrase. Still, we have little hesitation suggesting that her most important contributions came in the areas of socialization, political and legal culture, and women on the bench.<sup>3</sup>

#### SOCIALIZATION

Some of Cook's earliest research focused on socialization to explain judicial decisions. Defining socialization as "individual learning of the behavioral patterns and the values of institutional roles" (1971b, 253), Cook was among the first to recognize socialization's importance for understanding what judges do. Initial pieces considered ways in which court systems attempt to socialize new judges. For example, in an article published in the *Washington University Law Quarterly* (1971b), she took up two questions relating to the introductory seminars established

by the federal government to train new judges in effective case management and processing techniques: Why were they established, and what impact did they have? By invoking a wide range of data sources, Cook demonstrated that socialization through these seminars failed to have the desired effect of making courts more efficient.<sup>4</sup>

Cook's articles on judicial socialization not only were theoretically and methodologically innovative but were also, in at least one regard, substantively distinct from much of the research being produced by her male counterparts. While most of Cook's peers, including many of those profiled in this volume, tended to focus on U.S. Supreme Court justices, she set her sights on the life experiences of state and federal trial judges.<sup>5</sup> In so doing, she played a role in rewriting the agenda for a generation of researchers to come. They heeded her warning that our understanding of the judicial process would be incomplete unless we incorporated other judicial bodies into our work. Empirical studies of trial courts flourished during the late 1970s and 1980s (see, for example, Eisenstein and Jacob 1977; Mather 1979; Feeley 1979; Boyum and Mather 1983). But most of this research centered on criminal courts; much more remains to be done to understand civil courts and to develop broader theories of trial courts.

Cook also had mixed success in convincing her political science colleagues to undertake further investigations explicitly aimed at uncovering the effect of socialization on judicial behavior. To be sure, within a few years of publication of her article in the *Washington University Law Quarterly*, a scattering of work appeared, most notably Alpert, Atkins, and Ziller (1979) and Carp and Wheeler (1972), as well as some related studies, including Milton Heumann's (1978) research on how judges learn about plea bargaining and John Paul Ryan et al.'s (1980) survey and analysis of the work of state trial judges.<sup>6</sup> But this research rarely appeared in political science journals. Indeed, an electronic search of articles published in political science journals since 1980 yielded only one mention of "judicial socialization" or "the socialization of judges," and that mention was in passing.<sup>7</sup>

Conversely, the topic of judicial socialization receives regular coverage in sociolegal journals and law reviews. That it intrigues scholars in other disciplines and in the nation's law schools is not too difficult to explain, for it is the same reason that Cook finds it attractive: socialization offers an explanation of judicial decisions that, while not ignoring the role of politics, incorporates legal norms and social context. For example, in her study of the sentencing decisions made by black and white trial court judges, Cassia Spohn, a professor of criminal justice

(though a political scientist by training) argues that judicial socialization "produces a subculture of justice and encourages judges to adhere to prevailing norms, practices, and precedents" (1990, 1212). This may explain why sentencing decisions reached by judges of different races may be less dissimilar than some expect. Likewise, in her work on how judges decide divorce cases, professor of law Marsha Garrison argues that "judicial discretion at divorce is not as unlimited as statutory law alone would suggest." That is so, at least in part, because of judicial socialization, which helps to "establish a perimeter beyond which judicial decisions are unlikely to stray" (1996, 413; for similar sentiments, see, for example, Schneider 1991; Bierman 1995). Moreover, numerous articles in the law reviews consider the degree to which judicial socialization affects not only decisions but also other aspects of judicial behavior, such as the just, ethical, neutral, and expeditious processing of cases (see, for example, Goldberg 1985; Gavison 1988; Geyh 1993).

Most of this research examines judges' on-the-job socialization, but Cook's work also explores the effects of prebench experiences on decisions. For example, in her 1973 *Cincinnati Law Review* article, she seeks to explain the sentencing behavior of federal district judges in draft cases. This piece shows both her interest in judicial attitudes (for example, how, in sentencing draft resisters, judges might have been shaped by prior military service or age) and her concern with the structure of the political environment of judges (for example, how judges might have been affected by American Legion group pressure, by the extent of draft offense caseload, or by political party dominance in the district).

Seen in this way, while Cook's work on socialization exemplifies the attitudinal approach to an extent, it also reflects the concerns of historical institutionalism. And, in fact, we see strains of Cook's ideas about the importance of socialization in contemporary research that invokes this approach. In comparing the institutionalist perspective to the attitudinal model, Whittington explicitly makes this point:

Patterns of legal training, personnel selection, and judicial socialization all serve to shape how the Court approaches an individual case. By taking judicial preferences as given, the attitudinalists place in the background much of what formed the status quo more generally. The systematic intellectual and material processes that restrict the range of possible judicial outcomes are ignored. The attitudinalist model tells us a great deal about how a given justice is likely to vote in a case that raises particular issues,

but it tells us little about how such cases arose, how those issues had been framed, and why the justices approach their task in these ways. (2000, 621-22)

Given the insights historical institutionalists provide into key background variables that produce judicial attitudes (along with the insights of 1970s law professors and political scientists who focused on socialization), we have little hesitation in advising contemporary scholars who stress the relationship between institutional norms and judicial behavior to return to some of the original socialization studies, including Cook's, and to heed the theoretical, substantive, and methodological lessons these works offer.

#### POLITICAL AND LEGAL CULTURE

Cook's research on the impact of political and legal culture on judicial behavior reflects a second major theme in her work and represents a contribution for which she is widely cited. Her efforts to explain judging in trial courts led her to identify local culture as a necessary but not a sufficient explanation for judicial behavior (1983). In her study (1979b) showing the high correlation between criminal sentencing by state and federal judges in the same locality (despite their different legal frameworks), and in her piece (1983) comparing federal sentencing across regions of one state, Cook joined others scholars such as Thomas Church (1982) and James Eisenstein, Roy B. Flemming, and Peter F. Nardulli (1988) in demonstrating the importance of local legal culture. Exactly what the concept of local legal culture represents nevertheless remains a contested issue. Kritzer and Zemans (1993), for example, see culture simply as a residual of unexplained variation among courts, although most other scholars see substantive and useful content in the concept.

Equally controversial are Cook's most important contributions to the study of political culture, those that investigate whether courts consider or mirror the public's views when rendering judgments. This seemingly simple question has generated immense scholarly interest and debate. Despite decades of research, analysts have resolved neither the question of why federal judges, who do not require electoral support to retain their jobs, would consider public opinion in their decisions nor the question of whether they in fact do so.

It is beyond debate that Cook's work (1973, 1977, 1979a) provides the starting point for virtually all important analytic discussions of public opinion and trial courts. As Gregory A. Caldeira noted in his review

of the field, "Some dispute the findings and interpretations, but Beverly Cook has done important research on this topic and, without doubt, has drawn scholarly interest" (1991, 317).

Cook's 1977 article in the *American Journal of Political Science* well illustrates Caldeira's point. In it, she invokes a "representational" model to explain the sentences issued by federal district court judges in cases involving draft offenders. Her primary argument is that for a variety of reasons, we might expect to find a relationship between public opinion and judicial decisions, even for judges who do not face reelection. First, socializing experiences teach judges that public opinion is a legitimate consideration in their sentencing. Second, the recruitment process virtually guarantees that nominees will share the attitudes and values of the local community in which they will serve. Or, to put it another way, the selection system for federal judges embeds them in the political culture of their districts. Finally, the fact that judges watch television and read newspapers means that they will have some knowledge of the prevailing public mood. Cook's argument for her approach foreshadows that of today's judicial scholars, who are again seeking to compare judicial politics with legislative and administrative politics: "New models for research on judicial decisions should include concepts which also fit legislative and administrative processes, so that comparisons of political authorities in the three branches can be empirically rather than ideologically based" (1977, 593).

In the remainder of the article, Cook tests her representational approach as well as rival explanations—the legal, bureaucratic, and sociopsychological models—against data carefully assembled from public opinion surveys and from court sentencing records.<sup>8</sup> She applies a path model analysis to examine the relationship between the variables over time. The results indicate that public opinion correlates highly with judicial sentences.

Cook's work is not without its critics. Herbert Kritzer, for example, questions whether judges were responding to public opinion or to their "own doubts about the war, or their opinions concerning the degree of governmental commitment to the war" (1979, 198). Nonetheless, Cook's findings have withstood the test of time and are widely cited in accounts of public opinion and the courts (for example, Marshall 1989; Caldeira 1991). Her results also have been vindicated in several, though not all, subsequent studies. Work by James Kuklinski and John E. Stanga (1979) indicates that state judges, even those who rarely face electoral competition, bend to public sentiment. With regard to federal appellate jurists, Marshall finds that at the very least, U.S. Supreme

Court rulings do not deviate significantly from the views of the citizenry:

Most modern-day Court decisions reflect public opinion. When a clear-cut poll majority or plurality exists, over three-fifths of the Court's decisions reflect the polls. By all arguable evidence, the modern Supreme Court appears to reflect public opinion about as accurately as other policy makers. (1989, 97)

Mishler and Sheehan go even further, suggesting that changes in the public's ideological mood have a causal effect on macrolevel output: the justices "are broadly aware of fundamental trends in the ideological tenor of public opinion, and . . . at least some justices, consciously or not, may adjust their decisions at the margins to accommodate such fundamental trends" (1993, 89). Conversely, Norpoth and Segal (1994) assert that public opinion has virtually no influence on Supreme Court voting behavior. Instead, they find that Court appointments made by President Nixon in the early 1970s caused a sizable ideological shift in the direction of Court decisions. Thus, the illusion that the Court was echoing public opinion was created by the entry of conservative justices rather than by sitting justices modifying their preferences to conform to the changing views of the public.

The three most recent efforts to relate court decisions to public opinion, Stimson, MacKuen, and Erikson (1995); Mishler and Sheehan (1996); and Flemming and Wood (1997), which also concern the U.S. Supreme Court, fall somewhere between Mishler and Sheehan and Norpoth and Segal, leading to the obvious conclusion that this debate is far from over. These works do, however, shore up the enduring nature of the question Cook raised and perhaps underscore the need to move away from the U.S. Supreme Court to consider, as Cook did, federal trial court judges. Owing to the greater variation in these judges' political environments, a renewed focus on their behavior would enable us to maximize leverage on the general question of the relationship between public opinion and judicial behavior.

And, yet, for all the focus on the substantive question Cook raised, her research strategy sometimes goes neglected in treatments of public opinion. When she was writing in the 1970s, judicial specialists avoided competitive model testing—that is, they would select a particular theoretical approach to decision making and test its predictions, and only its predictions, against data. Today, many researchers claim that this tack was probably unwise since judicial decisions can best be explained by invoking models that integrate many different kinds of theories (see,

for example, George and Epstein 1992; Hall and Brace 1992). We might go so far as to say that today, at least in the area of public opinion, it would indeed be a rare piece that did not take into account alternative explanations. But, as noted earlier, Cook first had this important intuition and adopted it in her work. Seen in this way, she truly was a pioneer of the judicial process, a researcher two decades ahead of her time.<sup>9</sup>

#### WOMEN JUDGES

Under what circumstances are women selected to serve as jurists? Do female jurists bring a different voice to the bench? In recent years, these questions have captured the imagination of a slew of political scientists—as well they should. With two women now on the U.S. Supreme Court and with their numbers growing on the lower federal courts and state supreme courts, it seems only natural that this question move to the fore of social scientific research on the judicial process. But even before Sandra Day O'Connor took her seat on the Court, Cook had undertaken what would become an extensive and fruitful research program on women jurists. It is no exaggeration to write that virtually all contemporary writings on the selection of female judges and their impact owe their origin to her studies.

#### *Judicial Selection*

Cook's research on judicial selection began in 1977, when she traversed the country interviewing women judges and collecting other relevant information.<sup>10</sup> In the late 1970s, she amassed an enormous database on all female state, local, and federal judges in the United States and used it in a series of articles to explore how and when women were selected for the bench (1981a, 1982, 1984a). She advanced and tested ideas about a state's political culture, court size and organizational structure, political party influence, and method of judicial selection as well as the place of women in the legal profession and in state offices (Cook 1984a, 1984b, 1986). Among her more important findings is that women will become more than mere tokens in the courts only if there are increases in three key factors: (1) the number of judgeships, (2) the number of eligible women, and (3) the number of "gatekeepers" (those who select judicial candidates) who will give serious consideration to women.

Another of her important contributions was brought to light by Sheldon Goldman, one of the nation's leading authorities on judicial selection. In his review of Cook's work, Goldman made particular note of her article on Florence Allen (1981a), the first woman federal judge

and a candidate for at least ten of twelve vacancies on the Supreme Court that occurred during the Roosevelt and Truman administrations (Mather 1994, 76). But, of course, Allen never received an appointment, even though, as Cook demonstrated, Allen's background (except for her sex) was comparable to others who had served on the Court.

Why did Allen fail and O'Connor succeed? Cook takes up this question in yet another intriguing study (1982). The most significant of the several answers she derives is that Roosevelt did not perceive that Allen would help his political fortunes. Public opinion polls showed that in 1938 only 37 percent of Americans favored the appointment of a woman to the Court (1982, 318), and groups representing women's interests were not seen as central to passage of FDR's programs. As Cook demonstrates, the political environment had turned significantly by the late 1970s, enabling Reagan to do what Roosevelt found politically untenable: elevate a woman to the Court.

Still, Cook's work on Allen does more than answer an important research question. It also shows the importance of archival research. While many scholars toiling in the field rely exclusively on published reports or records, Cook draws extensively on judicial papers available in the Library of Congress, various presidential libraries, and the National Archives, among other repositories. The value of such data is evident in Cook's publications on Allen and on several other female judges (see, for example, Cook 1993). This information enables scholars to capture nuances of political phenomena that may be lost in the sometimes sterile world of statistics and that may have some bearing on the hypotheses under investigation.

#### *Impact of Women on the Bench*

Cook's archive-based research on judicial selection continues, as does her work on the equally important question of whether women bring a distinct voice to the bench, a question that has bearing on many areas of study, including constitutional interpretation, feminist jurisprudence, and judicial behavior. In fact, scholars now working in all these fields have attempted to address the topic, but Cook set the agenda for this entire line of inquiry. She was among the first to propose that female judges would be more likely than their male counterparts to advance prowoman positions in cases centering directly on the status of women (1981a), and she was one of the first to suggest that women would adopt positions that would conform to those of their male colleagues in other kinds of disputes (1978).

O'Connor's 1982 appointment to the bench provided Supreme

Court scholars with the opportunity to assess these predictions. Suzanna Sherry's (1986) examination of O'Connor's opinions revealed a more communitarian and contextual perspective than opinions authored by Rehnquist; the study also asserts that O'Connor's votes for civil rights claimants lend support for the hypothesized "feminine voice in constitutional adjudication." Later and more systematic investigations of O'Connor's votes qualified these conclusions somewhat. While Sue Davis also found greater support from O'Connor than from her male colleagues in claims of discrimination, Davis concluded that the data "do little to support the assertion that O'Connor's decision making is distinct by virtue of her gender" (1993, 139); rather, O'Connor may simply be more liberal than Rehnquist on issues of civil rights (see Brown, Parmet, and O'Connell 1999 for a similar conclusion).

With O'Connor as an *n* of one, it was obviously difficult for scholars to go much further in assessing U.S. Supreme Court behavior. Accordingly, a long line of judicial specialists have sought to assess predictions of gender-based decision making by looking at lower federal court judges (Walker and Barrow 1985; Davis, Haire, and Songer 1993; Aliotta 1995; Segal 1997; Crowe 1998) and at state-level judges (Kritzer and Uhlman 1977; Gruhl, Spohn, and Welch 1981; Allen and Wall 1993; Molette-Ogden 1998). In an early study of the voting behavior of President Jimmy Carter's appointees to the U.S. district courts, for example, Walker and Barrow (1985) observed significant differences between male and female judges in several legal areas but not in some of the arenas that Cook anticipated, such as gender discrimination and affirmative action.

In contrast come studies of gender and decision making based on votes in the U.S. courts of appeals that find differences in these substantive areas and, in so doing, bolster Cook's suggestions about importance of gender for judicial decisions in certain legal areas. Davis, Haire and Songer, for example, examined federal appellate vote patterns and found that in two of three areas (employment discrimination and search and seizure; the third was obscenity), there is "some support for the thesis that women judges bring a different perspective to the bench" (1993, 132). Similarly, Crowe (1998) found female judges on the courts of appeals significantly more likely than their male colleagues to vote for plaintiffs in sex discrimination cases.

Intriguingly, one of the most recent efforts along these lines, Segal's (1997) analysis of President Clinton's appointees to the federal district courts, falls somewhere between these earlier studies. She found that women appointees supported minorities in seventeen of the thirty-four

cases she analyzed; for men, the figure was eight of twenty-eight. Yet Segal detected no discernible differences between male and female judges in cases involving women's issues.

Results at the state level are equally mixed. While studies by Kritzer and Uhlman (1977) and Gruhl, Spohn, and Welch (1981) reveal no significant differences between male and female judges, work by Allen and Wall (1987, 1993) is more promising for Cook's thesis. Allen and Wall argue that "the data indicate that the preponderance of women justices . . . behave as Outsiders when deciding appeals which focus on women's issues" and those involving criminal rights (1987, 239).

Clearly, then, just as in the area of public opinion, far more research is necessary before we can reach conclusions about the veracity of Cook's predictions. Yet again as in public opinion, without her pioneering effort, the literature would be far less developed than it is.

#### PROFESSIONAL AND POLITICAL ACTIVITIES

Cook's contributions to political science do not end with her research: over the past thirty years, she has been honored as a distinguished leader in the profession. Her long list of professional activities includes stints as vice president of the APSA (1986-87) and of the Midwest Political Science Association (1982-84) and as chair of the APSA's section on Law and Courts (1981). She has also served on the editorial board of the *Western Political Quarterly* and on the program committees of the APSA (1982), the Midwest Political Science Association (1972), and the Western Political Science Association (1981). Finally, Cook made a major contribution to the field in her capacity as a member of the board of overseers of the National Science Foundation's project on the U.S. Supreme Court. That board guided the collection of a staggering amount of data on the Court, with the final product (Spaeth 1999; updated annually) now in wide use. So impressive are her scholarly and professional contributions that in 2000 the APSA's Law and Courts section bestowed on her its highest honor, the Lifetime Achievement Award.

Among all these accomplishments, though, it is probably fair to say that Cook is proudest of her role in the founding of the National Association of Women Judges (NAWJ).<sup>11</sup> Her association with the NAWJ began in 1977-78, when she was interviewing women state court judges. As she traveled around the country, she "discovered that the women had no knowledge of women judges in other states and cities." Based on the work she had been conducting on early women lawyers,

Cook "recognized the similarity of the women judges' situation to that of women lawyers one hundred years earlier and thought that it was time for them to form an organization."

Cook brought the idea to two of the judges she had interviewed. One of them, Joan Klein, followed up and organized a "constitutional convention" of women judges. Cook gave the keynote address at that meeting, suggesting that female judges should create their own sisterhood, just as the first women lawyers did.

As the association began to take shape, Cook continued her involvement. In fact, through the NAWJ she played a major role in bringing the organizational strength of women to the attention of the (pre-O'Connor) Supreme Court.<sup>12</sup> As Cook tells the story,

[I arranged] to have women judges attending the 1980 NAWJ convention in Washington, D.C., march together into the Supreme Court building for the special tour to impress the justices with [their] number. . . . I developed this strategy because of the report that Truman consulted with Chief Justice Vinson about the possibility of appointing Florence Allen; Vinson consulted with the brethren, and they expressed their discomfort at the idea of a woman in their private conferences.

Heeding this historical lesson, Cook thought it strategically sensible to confront Chief Justice Burger with the fact that a large number of women would soon be eligible for service on the Court. "If they entered the building en masse," as Cook put it, "then all the justices as well as the other (overwhelmingly male) personnel in the building would also understand that the day would soon come when a women would join their conferences."

Cook's message was delivered and apparently received. Chief Justice Burger was amazed "when he walked into the huge assembly room and saw the standing-room-only crowd," composed exclusively of women. Just one month later, the justices dropped, from courtroom courtesy and the official reports, the term *Mr.* and exactly a year later, O'Connor ascended to the bench.

Reflecting on her involvement with the women judges' visit to the Court and the NAWJ more generally, Cook acknowledged that it was "unusual" for social scientists and lawyers to engage in this sort of cooperation. Perhaps that would be true for most of us, but that is certainly not the case for Beverly Blair Cook, whom we have come to know as an intellectual leader and role model for a generation of scholars—men and women—of the judicial process.

CONCLUDING THOUGHT:  
THE VALUE OF ECLECTICISM

In more than one way, Cook is a different kind of pioneer. As the preceding section suggests, her professional activities highlighted her interest in gender as a factor in judging and her concerns about gender as an element of professional development and advancement in both law and political science. Through such activities and through her academic presence in the judicial field, she has been an important role model in a way her fellow (but male) pioneers were not.

Moreover, Cook is a different kind of attitudinal pioneer. As previous sections have detailed, much of Cook's research pushed the scholarly boundaries of the attitudinal model by seeking to understand the relationships among institutional norms, judicial policy preferences, and judicial behavior. Cook pushed these boundaries methodologically, allowing the nature of the research question to determine the research method utilized. She also intellectually pushed the boundaries of attitudinalism, incorporating into an explanation of judging the same legal norm and social context factors stressed by the alternative, historical-institutionalist approach to the study of judicial behavior. Though Cook never explicitly made this claim, her work constitutes some of the earliest practical revision of the attitudinal approach by an attitudinal scholar. In exploring the value of eclecticism in judicial research, Cook provided a new pathway from judicial attitudes to the institutional settings that frame the expression of those attitudes.

## NOTES

We adopt some of the material in this chapter from our previous writings on Cook (see Epstein 1996; Mather 1994).

1. The roundtable was held at the 1992 meeting of the American Political Science Association. Cook's remarks are available in Cook 1994a.
2. Walker 1994 examined all articles published by the *APSR*, the *American Journal of Political Science*, and the *Journal of Politics*.
3. It also bears noting that Cook was one of the first to conduct systematic research on black judges. For an early example, see Cook 1971a.
4. As we will describe, Cook's interest in judicial socialization remains unabated, though her later work focuses more heavily on the effect on judicial decisions of life experiences rather than of experiences occurring on the bench. Lawrence Baum made this point when he described Cook's research on Sandra Day O'Connor, which he deemed a "sensitive treatment of [her] life experiences and how those experiences affected her values on the bench" (quoted in Mather 1994, 77).

5. When Cook accepted her APSA award in 2000, she explained that choices about her research sites and methods were often dictated by family circumstances. Trial courts or appellate circuits were more accessible than the Supreme Court.

6. Based on a survey of all trial judges on courts of general jurisdiction throughout the country, the data in Ryan et al. 1980 provide a wealth of information on trial judges that scholars today could profitably use and replicate.

7. We searched the political science journals in J-STOR.

8. In a January 9, 2001, E-mail to us, Cook commented on her difficulty in obtaining usable sentencing data for this study. The Administrative Office of the Courts had only just begun to collect individual case data, and federal judges were quite distrustful of the AOC. Cook explained that the office "agreed to send me the data on the sentences without identification of the sentencing judge but made the mistake of including the judge code in the print-out. Then I spent several months breaking the code and cross-checking my [biographical] IDs with reported cases and court clerks in order to associate a judge with each sentencing choice."

9. Baum makes this point, though in a somewhat different way: "although multivariate models are now common in the field, Cook was among those who first showed how this kind of analysis could be done and how much we could learn from it" (quoted in Mather 1994, 77).

10. A Florence E. Eagleton grant (from the Center for the American Woman and Politics, Eagleton Institute) supported this research. In addition to the Eagleton grant, Cook has received support from the National Endowment for the Humanities, the Ford Foundation, and the Social Science Research Council.

11. Cook relayed the information that follows to Elaine Martin (Cook to Martin, May 31, 1993) and was kind enough to supply us with a copy of the letter.

12. Cook relayed the information in this paragraph to Epstein (Cook to Epstein, January 23, 1994).

## REFERENCES

- Aliotta, Jilda M. 1995. "Justice O'Connor and the Equal Protection Clause: A Feminine Voice?" *Judicature* 78:232-35.
- Allen, David W., and Diane E. Wall. 1987. "The Behavior of Women State Supreme Court Justices: Are they Tokens or Outsiders?" *Justice System Journal* 12:232-45.
- Allen, David W., and Diane E. Wall. 1993. "Role Orientations and Women State Supreme Court Justices." *Judicature* 77:156-65.
- Alpert, Lenore, Burton M. Atkins, and Robert C. Ziller. 1979. "Becoming a Judge: The Transition from Advocate to Arbiter." *Judicature* 62:325-35.

- Bierman, Luke. 1995. "The Dynamics of State Constitutional Decision-Making: Judicial Behavior at the New York Court of Appeals." *Temple Law Review* 68:1403-56.
- Boyum, Keith O., and Lynn Mather, eds. 1983. *Empirical Theories about Courts*. New York: Longman.
- Brown, Judith Olans, Wendy E. Parmet, and Mary E. O'Connell. 1999. "The Rugged Feminism of Sandra Day O'Connor." *Indiana Law Journal* 32:1219-93.
- Caldeira, Gregory A. 1991. "Courts and Public Opinion." In *The American Courts: A Critical Perspective*, ed. John B. Gates and Charles A. Johnson. Washington, D.C.: Congressional Quarterly Press.
- Carp, Robert A., and Russell Wheeler. 1972. "Sink or Swim: The Socialization of a Federal District Judge." *Journal of Public Law* 21:359-93.
- Church, Thomas. 1982. "Examining Local Legal Culture: Practitioner Attitudes in Four Criminal Courts" Washington, D.C.: National Institute of Justice.
- Cook, Beverly Blair. 1967. *The Judicial Process in California*. Belmont, Calif.: Dickenson.
- Cook, Beverly Blair. 1971a. "Black Representation in the Third Branch." *Black Law Journal* 1:260-81.
- Cook, Beverly Blair. 1971b. "The Socialization of New Federal Judges: Impact on District Court Business." *Washington University Law Quarterly* 1971: 253-79.
- Cook, Beverly Blair. 1973. "Sentencing Behavior of Federal Judges: Draft Cases—1972." *University of Cincinnati Law Review* 42:597-633.
- Cook, Beverly Blair. 1977. "Public Opinion and Federal Judicial Policy." *American Journal of Political Science* 21:567-600.
- Cook, Beverly Blair. 1978. "Women Judges: The End of Tokenism." In *Women in the Courts*, ed. Winifred L. Hepperle and Laura Crites. Williamsburg, Va.: National Center for State Courts.
- Cook, Beverly Blair. 1979a. "Judicial Policy: Change over Time." *American Journal of Political Science* 23:208-14.
- Cook, Beverly Blair. 1979b. "Sentencing Problems and Internal Court Reform." In *The Study of Criminal Courts*, ed. Peter Nardulli. Cambridge, Mass.: Ballinger.
- Cook, Beverly Blair. 1981a. "The First Woman Candidate for the Supreme Court." *Supreme Court Historical Society Yearbook* 1981:19-35.
- Cook, Beverly Blair. 1981b. "The Impact of Women Judges upon Women's Legal Rights: A Prediction from Attitudes and Simulated Behavior." In *Women, Power, and Political Systems*, ed. Margherita Rendel. New York: St. Martin's.
- Cook, Beverly Blair. 1982. "Women as Supreme Court Candidates: From Florence Allen to Sandra Day O'Connor." *Judicature* 65:314-26.
- Cook, Beverly Blair. 1983. "Sentencing the Unpatriotic: Federal Trial Judges

- in Wisconsin during Four Wars." In *The Quest for Social Justice*, ed. Ralph Aderman. Madison: University of Wisconsin Press.
- Cook, Beverly Blair. 1984a. "Women Judges: A Preface to Their History." *Golden Gate Law Review* 14:573-610.
- Cook, Beverly Blair. 1984b. "Women on the State Bench: Correlates of Access." In *Political Women: Current Roles in State and Local Government*, ed. Janet Flammang. Beverly Hills, Calif.: Sage.
- Cook, Beverly Blair. 1987. "Women Judges in the Opportunity Structure." In *Women, the Courts, and Equality*, ed. Laura L. Crites and Winifred L. Hepperle. Newbury Park, Calif.: Sage.
- Cook, Beverly Blair. 1993. "Measuring the Significance of U.S. Supreme Court Decisions." *Journal of Politics* 55:1127-39.
- Cook, Beverly Blair. 1994a. "A Critique of the Supreme Court's 1982 Agenda: Alternatives to the NYU Model." *Justice System Journal* 17:135-51.
- Cook, Beverly Blair. 1994b. "Ghosts and Giants in Judicial Politics." *P.S.: Political Science and Politics* 27:78-84.
- Cook, Beverly Blair. 1995. "Justice Brennan and the Institutionalization of Dissent Assignment." *Judicature* 79:17-23.
- Cook, Beverly Blair. 1996. "Justice Blackmun and the Attitudinal Model." Presented at the annual meeting of the American Political Science Association, San Francisco, September.
- Cook, Beverly Blair. 1998. "Annette Abbott Adams," "Florence E. Allen," "Georgia P. Bullock," and "Marion J. Harron." In *American National Biography*. New York: Oxford University Press.
- Cook, Beverly Blair. Forthcoming. "The Fuzzy Logic of the Supreme Court's Legal Language." *Judicature*.
- Crowe, Nancy. 1998. "Diversity on the Federal Bench: The Effect of Judges' Sex and Race on Judicial Decision Making." Paper presented at the annual meeting of the Law and Society Association, Aspen, Colo.
- Davis, Sue. 1993. "The Voice of Sandra Day O'Connor." *Judicature* 77:134-39.
- Davis, Sue, Susan Haire, and Donald R. Songer. 1993. "Voting Behavior and Gender on the U.S. Courts of Appeals." *Judicature* 77:129-33.
- Eisenstein, James, Roy B. Flemming, and Peter F. Nardulli. 1988. *The Contours of Justice: Communities and Their Courts*. Boston: Little, Brown.
- Eisenstein, James, and Herbert Jacob. 1977. *Felony Justice: An Organizational Approach to Criminal Courts*. Boston: Little, Brown.
- Epstein, Lee. 1996. "Beverly Blair Cook." In *Women in Law*, ed. Rebecca Mae Sakolar and Mary L. Volcansek. Westport, Conn.: Greenwood.
- Feeley, Malcolm. 1979. *The Process Is the Punishment*. New York: Russell Sage.
- Flemming, Roy B., and B. Dan Wood. 1997. "The Public and the Supreme Court: Individual Justice Responsiveness to American Policy Moods." *American Journal of Political Science* 41:468-98.
- Garrison, Marsha. 1996. "How Do Judges Decide Divorce Cases? An Empiri-

- cal Analysis of Discretionary Decision Making." *North Carolina Law Review* 74:401-552.
- Gavison, Ruth. 1988. "The Implications of Jurisprudential Theories for Judicial Election, Selection, and Accountability." *Southern California Law Review* 61:1617-62.
- George, Tracey E., and Lee Epstein. 1992. "On the Nature of Supreme Court Decision Making." *American Political Science Review* 86:323-37.
- Geyh, Charles Gardner. 1993. "Informal Methods of Judicial Discipline." *University of Pennsylvania Law Review* 142:243-331.
- Goldberg, Susan L. 1985. "Judicial Socialization: An Empirical Study." *Journal of Contemporary Law* 11:423-51.
- Gruhl, John, Cassia Spohn, and Susan Welch. 1981. "Women as Policymakers: The Case of Trial Judges." *American Journal of Political Science* 25:308-22.
- Hall, Melinda Gann, and Paul Brace. 1992. "Toward an Integrated Model of Judicial Voting Behavior." *American Politics Quarterly* 20:147-68.
- Heumann, Milton. 1978. *Plea Bargaining: The Experiences of Prosecutors, Judges, and Defense Attorneys*. Chicago: University of Chicago Press.
- Kort, Fred. 1964. "Comment on 'The Troubled World of Jurimetrics.'" *Journal of Politics* 26:923-26.
- Kritzer, Herbert M. 1979. "Federal Judges and Their Political Environments: The Influence of Public Opinion." *American Journal of Political Science* 23:194-207.
- Kritzer, Herbert M., and Thomas M. Uhlman. 1977. "Sisterhood in the Courtroom: Sex of Judge and Defendant in Criminal Case Disposition." *Social Science Journal* 14:77-88.
- Kritzer, Herbert M., and Frances Kahn Zemans. 1993. "Local Legal Culture and the Control of Litigation." *Law and Society Review* 27:535-57.
- Kuklinski, James H., and John E. Stanga. 1979. "Political Participation and Government Responsiveness: The Behavior of California Superior Courts." *American Political Science Review* 73:1090-99.
- Marshall, Thomas. 1989. *Public Opinion and the Supreme Court*. Boston: Unwin Hyman.
- Mather, Lynn. 1979. *Plea Bargaining or Trial? The Process of Criminal Case Disposition*. Lexington, Mass.: Lexington Books.
- Mather, Lynn. 1994. "Introducing a Feminist Pioneer: Beverly Blair Cook." *P.S.: Political Science and Politics* 27:76-78.
- Mendelson, Wallace. 1964a. "Response." *Journal of Politics* 26:927-28.
- Mendelson, Wallace. 1964b. "The Untroubled World of Jurimetrics." *Journal of Politics* 26:915-22.
- Mendelson, Wallace. 1966. "An Open Letter to Professor Spaeth and His Jurimetrical Colleagues." *Journal of Politics* 28:429-32.
- Mishler, William, and Reginald Sheehan. 1993. "The Supreme Court as a Counter-majoritarian Institution? The Impact of Public Opinion on Supreme Court Decisions." *American Political Science Review* 87:716-24.

- Mishler, William, and Reginald Sheehan. 1996. "Public Opinion, the Attitudinal Model, and Supreme Court Decision Making: A Micro-Analytic Perspective." *Journal of Politics* 56:169-200.
- Molette-Ogden, Carla E. 1998. "Female Jurists: The Impact of Their Increased Presence on the Minnesota Supreme Court." Ph.D. diss., Washington University, St. Louis.
- Murphy, Walter F. 1964. *The Elements of Judicial Strategy*. Chicago: University of Chicago Press.
- Norpoth, Helmut, and Jeffrey A. Segal. 1994. "Popular Influence on Supreme Court Decisions." *American Political Science Review* 88:711-16.
- Pritchett, C. Herman. 1941. "Divisions of Opinion among Justices of the U.S. Supreme Court." *American Political Science Review* 35:890-98.
- Pritchett, C. Herman. 1948. *The Roosevelt Court: A Study in Judicial Politics and Values*. New York: Macmillan.
- Pritchett, C. Herman. 1954. *Civil Liberties and the Vinson Court*. Chicago: University of Chicago Press.
- Rowland, C. K., Robert A. Carp, and Ronald A. Stidham. 1984. "Judges' Policy Choices and the Value Basis of Judicial Appointments: A Comparison of Support for Criminal Defendants among Nixon, Johnson, and Kennedy Appointees to the Federal District Courts." *Journal of Politics* 46:886-902.
- Ryan, John Paul, et al. 1980. *American Trial Judges*. New York: Free Press.
- Schneider, Carl E. 1991. "Discretion, Rules, and Law: Child Custody and the UMDA's Best-Interest Standard." *Michigan Law Review* 89:2215-98.
- Schubert, Glendon. 1965. *The Judicial Mind: The Attitudes and Ideologies of Supreme Court Justices, 1946-1963*. Evanston, Ill.: Northwestern University Press.
- Schubert, Glendon. 1967. "Academic Ideology and the Study of Adjudication." *American Political Science Review* 61:106-29.
- Segal, Jennifer A. 1997. "The Decision Making of Clinton's Nontraditional Judicial Appointees." *Judicature* 80:279.
- Shapiro, Martin M. 1964a. *Law and Politics in the Supreme Court: New Approaches to Political Jurisprudence*. New York: Free Press.
- Shapiro, Martin M. 1964b. "Political Jurisprudence." *Kentucky Law Journal* 52:294-345.
- Sherry, Suzanna. 1986. "The Gender of Judges." *Law and Inequality* 4:159-69.
- Spaeth, Harold J. 1965. "Jurimetrics and Professor Mendelson: A Troubled Relationship." *Journal of Politics* 27:875-80.
- Spaeth, Harold J. 1999. *United States Supreme Court Judicial Database*. Ann Arbor: Inter-University Consortium for Political and Social Research, study 6557.
- Spohn, Cassia. 1990. "The Sentencing Decisions of Black and White Judges: Expected and Unexpected Similarities." *Law and Society Review* 24:1197-1216.
- Stimson, James A., Michael B. MacKuen, and Robert S. Erikson. 1995. "Dynamic Representation." *American Political Science Review* 89:543-65.

- Walker, Thomas G. 1994. "The Development of the Field." Paper presented at the Columbus Conference on the State of the Field of Judicial Politics, Columbus, Ohio.
- Walker, Thomas G., and Deborah J. Barrow. 1985. "The Diversification of the Federal Bench: Policy and Process Ramifications." *Journal of Politics* 47:596-617.
- Whittington, Keith E. 2000. "Once More unto the Breach: Post-Behavioralist Approaches to Judicial Politics." *Law and Social Inquiry* 25:601-34.