

Law and Economics II

Empirical Law and Economics

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Office Hours: By appointment. Email is a good way to contact me. **All students should periodically check their GMU email account for important information.**

Abstract: The theory of law and economics exploded in the 1970s and 1980s and today is a well-accepted approach to law adopted by all the major law schools in the United States. In the past 20 years greater attention has focused on testing, illustrating and expanding the theory with empirical methods. In this class we will do two things. First, we will review and explain some important techniques in econometrics that are widely used in empirical law and economics. Second we will examine empirical studies of property law, divorce, torts, crime, discrimination, and the effect of law on freedom and economic growth. Attention will be paid to research methods as well as to substantive conclusions and open areas for more research.

Grading

Your grade will be determined by a midterm, homework, class participation, presentation and a paper according to the following division.

Midterm: 30%
Homework: 20%
Class Participation: 5%
Presentation: 15%
Paper: 30%

My personal grading scale is as follows. Note that sometimes the university does not allow certain grades such as Ds in which case you will receive the next highest grade below D. Plus-Minuses for B through D grades, where allowed by university policy, will occur at the upper and lower 2.5% level. For example, 70-72.49 will be B-, 72.5-77.49 B, 77.5-79.9 B+ and so forth.

A+: 90%+
A: 85-89%

A-: 80-84%
B: 70-79%
C: 60-69%
D: 50-59%
F: 50% -

There will be no final exam. Ideally, the paper will serve as a draft for a dissertation chapter and eventually a publication. I am looking for a 10-20 page, well-written empirical paper in law and economics, a theory paper is also acceptable if you explain how the model might be tested. You may work in a group of two or at most three but note that you cannot all have the same dissertation chapter! Papers are due last day of class no exceptions. You are encouraged to think about topics early and see me for some possible guidance. You will also be required to make a 15 minute class presentation.

STATA: All PhD students should have a copy of STATA, the premier package for sophisticated econometrics. If you do not already own STATA, students can get a fully functional, permanent license for [STATA 15/IC](#) for just \$198 this is very cheap! R is fine too although I can offer less help with R.

Review of Empirical Methods

For econometric review, I recommend

Cunningham, Scott. 2021. [Causal Inference: The Mixtape](#). New Haven: Yale University Press. See also the [online version](#).

Also good to have are:

Angrist, J. D., & Pischke, J.-S. 2014. *Mastering Metrics: The Path from Cause to Effect*. Princeton ; Oxford: Princeton University Press.
Angrist, J. D., & Pischke, J.-S. 2008. *Mostly Harmless Econometrics: An Empiricist's Companion*. Princeton University Press.

Review of Empirical Methods and Data

Tabarrok, Alexander, Eric A. Helland, and Paul S. Heaton. 2010. [The Measure of Vice and Sin: A Review of the Uses, Limitations and Implications of Crime Data](#). In *Handbook On The Economics Of Crime*, ed. Bruce Benson and Paul Zimmermann. Cheltenham, England: Edward Elgar.

Helland, E. and Tabarrok, A. (2003) "[Race, Poverty, and American Tort Awards: Evidence from Three Datasets](#)." *Journal of Legal Studies* 32: 27-58.

Helland, E., Klick, J. and Tabarrok, A. (2005) ["Tort-uring the Data."](#) *Journal of Economic Perspectives*.

Sacerdote, B. 2001. [Peer effects with random assignment: Results for Dartmouth roommates.](#) *Quarterly Journal of Economics* **116** 2 (2001), pp. 681-704.

Ho, Daniel, Kosuke Imai, Gary King, and Elizabeth Stuart. 2007. [Matching as Nonparametric Preprocessing for Reducing Model Dependence in Parametric Causal Inference.](#) *Political Analysis* 15: 199-236. Copy at <http://j.mp/jPupwz>

Helland, E. and Tabarrok, A. (2004) ["The Fugitive: Evidence on Public versus Private Law Enforcement from Bail Jumping"](#). *Journal of Law and Economics* XLVII (1): 83-122.

Levitt, Steven (1996) ["The Effect of Prison Population Size on Crime Rates: Evidence from Prison Overcrowding Litigation."](#) *Quarterly Journal of Economics*, v. 111:319-352.

Abadie, A., Diamond, A., & Hainmueller, J. 2010. [Synthetic Control Methods for Comparative Case Studies: Estimating the Effect of California's Tobacco Control Program.](#) *Journal of the American Statistical Association*, 105(490): 493-505.

Lee, David S. 2001. [The Electoral Advantage to Incumbency and Voters' Valuation of Politicians' Experience: A Regression Discontinuity Analysis of Elections to the U.S. House.](#) NBER Working Paper 8441.

Chen, Keith, M. and Jesse M. Shapiro. 2007. [Do Harsher Prison Conditions Reduce Recidivism? A Discontinuity-based Approach.](#) *American Law and Economics Review*. Vol. 9, No. 1 (Spring 2007), pp.1-29

Manski, Charles and Daniel Nagin. 1998. [Bounding Disagreements about Treatment Effects: A Case Study of Sentencing and Recidivism.](#) *Sociological Methodology* 28: 99-137.

Glynn, Adam. 2009. [Does Oil Cause War Because it Causes State Weakness.](#)

Freedman, David (1991) "Statistical Models and Shoe Leather," *Sociological Methodology*, Vol. 21, 291-313.

Coase Theorem

Farnsworth, W. (1999) ["Do Parties to Nuisance Cases Bargain After Judgment? A Glimpse Inside the Cathedral."](#) 66. *U. of Chicago Law Review*, 373-436.

Hoffman, Elizabeth and Spitzer, Matthew L. (1986) ["Experimental Tests of the Coase Theorem with Large Bargaining Groups"](#) 15 *Journal of Legal Studies*, 149-171.

Ellickson, Robert C. (1986) "[Of Coase and Cattle: Dispute Resolution among Neighbors in Shasta County](#)", 38 *Stanford Law Review*, 623-687.

Coase and Divorce

Peters, H Elizabeth.(1986) "[Marriage and Divorce: Informational Constraints and Private Contracting](#)" *American Economic Review*. Vol. 76 (3). p 437-54.

Friedberg, Leora (1998) "[Did Unilateral Divorce Raise Divorce Rates? Evidence From Panel Data](#)", *American Economic Review*, 88(3). p 608-627.

Wolfers, Justin. Did Unilateral Divorce Laws Raise Divorce Rates?
A Reconciliation and New
Results. [http://bpp.wharton.upenn.edu/jwolfers/Papers/Divorce\(AER\).pdf](http://bpp.wharton.upenn.edu/jwolfers/Papers/Divorce(AER).pdf)

Data [here](#).

Stevenson, Betty and Wolfers, J. (2004) "[Bargaining in the Shadow of the Law: Divorce Laws and Family Distress](#)." NBER Working Paper

The Political Economy of Torts

Helland, E. and Tabarrok, A. (2002) "[The Effect of Electoral Institutions on Tort Awards](#)." *American Law and Economics Review* 4 (2): 341-370.

Klerman, Daniel. 2007. [Jurisdictional Competition and the Evolution of the Common Law](#). Working Paper.

How Judges and Juries Decide

Sunstein et al. (2002) "[Punitive Damages: How Juries Decide](#)" University of Chicago Press.

[Mathias, Burl v. Accor Economy Lodg](#), Judge Posner's opinion.

Kahneman, Daniel, David Schkade, and Cass R Sunstein. 1998. [Shared Outrage and Erratic Awards : The Psychology of Punitive Damages](#). *Journal of Risk and Uncertainty* 86 (1): 49-86.

Schkade, David, Cass R. Sunstein, and Daniel Kahneman. 2000. [Deliberating about Dollars: The Severity Shift](#). *Columbia Law Review* 100 (4) (May 1): 1139-1175. doi:10.2307/1123539.

Viscusi, Kip and Zeckhauser, R. (2004) "[The Denominator Blindness Effect: Accident Frequencies and the Misjudgment of Recklessness](#)." *American Law and Economics Review*, Vol. 6, No. 1, pp. 72-94.

Anwar, S., Bayer, P., & Hjalmarsson, R. 2012. [The Impact of Jury Race in Criminal Trials](#). *The Quarterly Journal of Economics*, 127(2): 1017-1055.

Viscusi, W. Kip. 1999. [How Do Judges Think about Risk?](#) *American Law and Economics Review* 1 (1/2): 26-62. doi:10.2307/42705348.

Contingency Fees

Helland E. and A. Tabarrok. 2003. [Contingency Fees, Settlement Delay and Low-Quality Litigation: Empirical Evidence from Two Datasets](#). *Journal of Law, Economics, and Organization* 19 (2): 517-542.

Brickman, L. 2003a. [Effective Hourly Rates of Contingency-Fee Lawyers](#): Competing Data and Non-Competitive Fees. *Washington University Law Quarterly* 81 (3):653-736.

Tabarrok, Alexander. 2005. [The Problem of Contingent Fees for Waiters](#). *The Green Bag*. Summer 2005: 377-381.

Courts and Regulation

Djankov, Simeon, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer. 2003. Courts. *The Quarterly Journal of Economics* 118 (2): 453-517. <https://doi.org/10.1162/003355303321675437>.

Glaeser, Edward L., and Andrei Shleifer. 2003. The Rise of the Regulatory State. *Journal of Economic Literature* 41 (2): 401-25. <https://doi.org/10.1257/002205103765762725>.

Mulligan, Casey B., and Andrei Shleifer. 2005. The Extent of the Market and the Supply of Regulation. *The Quarterly Journal of Economics* 120 (4): 1445-73. <https://www.jstor.org/stable/25098776>

Goldschlag, Nathan, and Alex Tabarrok. 2018. Is Regulation to Blame for the Decline in American Entrepreneurship? *Economic Policy* 33 (93): 5-44. <https://doi.org/10.1093/epolic/eix019>.

Corporate Law

Henry Hansmann; Reinier Kraakman. 1991. [Toward Unlimited Shareholder Liability for Corporate Torts](#). *The Yale Law Journal*, Vol. 100, No. 7. (May, 1991), pp. 1879-1934.

Ringleb, Al H.; Steven N. Wiggins. 1990. [Liability and Large-Scale, Long-Term Hazards](#). *The Journal of Political Economy*, Vol. 98, No. 3, pp. 574-595.

Weinstein, Mark I. 2003. [Share Price Changes and the Arrival of Limited Liability in California](#). *The Journal of Legal Studies*, volume 32 (2003), pages 1-25.

Patents and Intellectual Property

Galasso, Alberto, and Mark Schankerman. 2015. [Patents and Cumulative Innovation: Causal Evidence from the Courts](#). *The Quarterly Journal of Economics* 130 (1): 317-69. <https://doi.org/10.1093/qje/qju029>.

Sampat, Bhaven, and Heidi L. Williams. 2019. [How Do Patents Affect Follow-On Innovation? Evidence from the Human Genome](#). *American Economic Review*, 109 (1): 203-36.

Dourado, E., & Tabarrok, A. 2015. [Public choice perspectives on intellectual property](#). *Public Choice*, 163(1): 129-151.

Tabakovic, Haris, and Thomas G. Wollmann. 2018. [From Revolving Doors to Regulatory Capture? Evidence from Patent Examiners](#). Working Paper 24638. National Bureau of Economic Research. <https://doi.org/10.3386/w24638>.

Murray, Fiona, Philippe Aghion, Mathias Dewatripont, Julian Kolev, and Scott Stern. 2016. [Of Mice and Academics: Examining the Effect of Openness on Innovation](#). *American Economic Journal: Economic Policy* 8 (1): 212-52.

Crime

Klick, J. and Tabarrok, A. (2005) [Using Terror Alert Levels To Estimate the Effect of Police on Crime](#). *Journal of Law and Economics*. 48(1): 267-280.

Helland, E. and A. Tabarrok. 2007. [Does Three Strikes Deter: A Non-Parametric Investigation](#). *Journal of Human Resources* XLII (2): 309-330.

Drago, F., Galbiati, R., & Vertova, P. 2009. [The Deterrent Effects of Prison: Evidence from a Natural Experiment](#). *Journal of Political Economy*, 117(2): 257-280.

Drago, F., & Galbiati, R. 2012. [Indirect Effects of a Policy Altering Criminal Behavior: Evidence from the Italian Prison Experiment](#). *American Economic Journal: Applied Economics*, 4(2): 199-218.

Incarceration

Aizer, Anna, and Joseph J. Doyle. 2015. Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges. *The Quarterly Journal of Economics* 130 (2): 759-803. <https://doi.org/10.1093/qje/qjv003>.

Bhuller, Manudeep, Gordon B Dahl, Katrine V Loken, and Magne Mogstad. 2016. Incarceration, Recidivism and Employment. Working Paper 22648. National Bureau of Economic Research. <https://doi.org/10.3386/w22648>.

Bail

Kleinberg, Jon, Himabindu Lakkaraju, Jure Leskovec, Jens Ludwig, and Sendhil Mullainathan. 2018. [Human Decisions and Machine Predictions](https://doi.org/10.1093/qje/qjx032). *The Quarterly Journal of Economics* 133 (1): 237-93. <https://doi.org/10.1093/qje/qjx032>.

Stevenson, Megan T. 2018. [Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes](https://papers.ssrn.com/abstract=2777615). SSRN Scholarly Paper ID 2777615. Rochester, NY: Social Science Research Network. <https://papers.ssrn.com/abstract=2777615>.

Special Topics in Crime

Wolfers, Justin and John Donohue. 2005. [Uses and Abuses of Empirical Evidence in the Death Penalty Debate](#). *Stanford Law Review* (2005) 58:791-846.

Ayres, I. and Levitt, S. (1998) [Measuring the Positive Externalities from Unobservable Victim Precaution: An Empirical Analysis of Lojack](#). *Quarterly Journal of Economics*, 113(1), pp. 43-77.

Donohue, John J. and Siegelman, P. (1998) [Allocating resources among prisons and social programs in the battle against crime](#). *Journal of Legal Studies* 27:1-43.

Fisman, Ray (2001) ["Estimating the Value of Political Connections."](#) *American Economic Review*, v. 91, n. 4.

Duggan, Mark and Levitt, Steven (2002) ["Winning Isn't Everything: Corruption in Sumo Wrestling."](#) *American Economic Review*, v. 92 (December):1594-1605.

The Long Shadow of Institutions

Banerjee, Abhijit, and Lakshmi Iyer. 2005. [History, Institutions, and Economic Performance: The Legacy of Colonial Land Tenure Systems in India](#). *American Economic Review* 95 (4): 1190-1213.

Lee, Alexander. 2019. [Land, State Capacity, and Colonialism: Evidence From India](#). *Comparative Political Studies* 52 (3): 412-44.