Drafting Coding Questions for Policy Surveillance

Coding is the process of answering questions to create empirical legal data. The aim of coding is to capture objectively measurable characteristics of the legal text, rather than to interpret the language or consider how the law might apply to a particular behavior or a specific case or incident.

1. REMEMBER YOUR PURPOSE:

You should ensure that every question you ask supports the objectives of the project. If you start to get lost when writing your questions ask yourself two questions: (1) what are you trying to learn? (2) What do you want to be able to do with the data? If the question does not facilitate the response to those two questions, get rid of it.

2. CONSIDER YOUR AUDIENCE:

Your audience informs both audience informs both the type of questions you ask, but also how you ask them. It is important to remember that sometimes the audience will include individuals with no legal training, therefore whenever possible you want to avoid legal jargon and abbreviations. You may also want to consider the amount of questions in your study. The ideal study is long enough to capture all the essential elements that need to be measured, but not so long as to increase the likelihood that users will be intimidated or overwhelmed.

3. REMEMBER, OBSERVATION NOT INTREPRETATION:

The aim of coding is to capture objectively measurable characteristics of the legal text, rather than to interpret the language or consider how the law might apply to a particular behavior or a specific case or incident.

4. ASK ONE THING AT A TIME:

Avoid questions that ask about more than one thing at a time. For example, if you ask, "does the law provide mitigation and affirmative defenses?" the response would be ambiguous. If you want to know about mitigation and defenses, ask both questions.

5. IF A QUESTION CAN BE MISINTERPRETED, IT WILL BE:

Ambiguity and vagueness will lead to divergences in the responses, as different codes will make different assumptions about the meaning of ambiguous or vague terms. For example, if you ask, "what penalties does the law provide for a violation?" you may get different responses based whether a researcher is coding for a first or second violation.

6. KEEP OPEN ENDED QUESTIONS TO A MINIMUM:

Open ended questions can be useful, especially at the beginning of the project. They can elicit unanticipated responses which provide new directions for research. However, they are not easily used in analysis and can be difficult to display, especially if clear themes do not emerge. Therefore, you want to use them as a tool for exploration of the law, but want to ensure they are converted to different question types as soon as possible.

7. IN A MULTIPLE-CHOICE QUESTION, COVER ALL OPTIONS WITHOUT OVERLAPPING:

When you ask a multiple-choice question that can only have one answer, give the researcher a list that covers all the options without overlapping. For example, if you ask a researcher what age of drivers are covered by the law, the choices should not be "18-25," "25-35," "35-45," and "over 45" because these choices overlap. Instead, the choices should be "18-24," "25-34," "35-45," and "over 45."

8. AVOID "N/A" OR "DOES NOT APPLY"

9. REMEMBER, THE PROCESS IS ITERATIVE:

It is impossible to capture every possible dimension of the law in the initial question draft. The coding process is designed so that the supervisor and researchers can constantly evaluate and change the questions as they gather more information about the law. Therefore, it is important you:

- Create an "other" category – this will allow you to capture unexpected or new variations in the law
- Use caution notes – when ambiguity in coding arises, point it out.