

Kris Turner:

Hello, and welcome to Wisconsin Law in Action, the University of Wisconsin Law School's podcast. I'm your host, Kris Turner. Today, my guest is Bridget Lavender, a staff attorney with the State Democracy Research Initiative. Her work has recently focused on civil rights and constitutional claims in state courts, but Bridget has also worked on a variety of projects across the country, and joined the UW Law School in September of 2025. Bridget, thank you for joining the podcast today.

Bridget Lavender:

Thank you so much for having me. I'm excited to be here.

Kris Turner:

Of course. I believe you are the first State Democracy Research Initiative staff member that I've had on the podcast, so this is a wonderful opportunity for us. Professor Yablon was on years ago. We won't count him for these purposes. We need other folks to talk about things, of course.

Bridget Lavender:

Yeah. Well, that's exciting. And my colleagues also have incredible things to say, so hopefully I'm not the last.

Kris Turner:

No, you're breaking down the doors for SDRI

Bridget Lavender:

Great.

Kris Turner:

... is what I think for the podcast. But, to just dive right into it, first of all, for all of our listeners who may not be familiar with the State Democracy Research Initiative or SDRI, can you give us an overview and discuss your role in it?

Bridget Lavender:

Yeah, totally. SDRI works to advance research and dialogue on state constitutions, state-level democracy, it's in the name, and state government. A lot of legal research and writing is focused on the federal level and the federal government, but you'd be surprised about how many state issues just aren't fully explored yet. And so, that's one of the things that SDRI takes head on. Our work takes a variety of forms, right? We write academic articles, white papers, explainers, amicus briefs. It's a lot of research, a lot of writing. But, we also have two interactive websites on state constitutions and the democracy principle within them that you can click on a state and learn more about your state constitution. But, we host events, and there's also a lot of behind the scenes work, I like to call it, speaking informally with policymakers, advocates, journalists about our work. It's a really great place to be.

And as you said, I'm a staff attorney there. I started in September. I've already gotten to work on a really wide variety of issues. I've written and published a legal explainer, which I think we might talk about later today. I'm in the process of working on two or three other legal explainer type projects. And then, I've also just had formal and informal conversations with journalists, state policymakers, advocates

about the work that we're doing. In November, I testified about my work in front of a Massachusetts legislative committee, so that was pretty cool. And so, for someone who's working and interested in state constitutions, and state level democracy, SDRI is an incredible job, and I'm really fortunate to have landed here, and with the UW community.

Kris Turner:

The sheer amounts of resources that you all put out there is just amazing to me. The websites you mentioned, I definitely want to link out to those on our podcast page. They're an amazing resource that I have suggested to a lot of researchers in the past, and I definitely will do so again. Is SDRI one of the first of its kind in the nation?

Bridget Lavender:

I think it is, yeah, focused specifically on state level democracy and research. We're not the only ones interested in some of these aspects. The Brennan Center does a lot of great research on elections, and voting rights, and institutions as well. There's a lot of different places doing this work. I don't know. But, I think the SDRI is one of the very first that's focused specifically on state level avenues and institutions and how they intersect with democracy work.

Credit to Professors Seifter and Yablon for starting it at UW, and UW for supporting it, because it really is nationwide recognized as doing some incredible research. And in my former life, I knew about SDRI and use their resources, including their interactive websites all the time, so it really is filling in a gap that was long existed in legal research and writing.

Kris Turner:

Speaking of that former life, excellent segue for me. Thank you very much for that, Bridget. You came to SDRI after a Skadden fellowship with the ACLU State Supreme Court initiative where you focused on state constitutional claims, as I mentioned in the introduction. How has that experience shaped your approach for thinking about federal state dynamics?

Bridget Lavender:

Yeah, that's a great question. And State Supreme Court Initiative at the ACLU is often referred to as SSCI, but I'll try not to do that, because I think it's a little confusing with SDRI. Obviously, I have a theme, but so at the ACLU, I primarily focused on litigating state constitutional claims in state court, usually at the appellate level, so in State Supreme Courts and usually through amicus or a friend of the court briefs. And in that job, I worked on a wide variety of legal issues and civil rights issues. Basically, if it was within the ACLU's wheelhouse, it was fair game for us. I worked on reproductive rights, criminal procedure, free speech, voting rights, you name it. And while doing some of this kind of intense targeted research into state law, state precedent, state courts, state constitutions, I used SDRI's 50 Constitution website, as I mentioned, almost every day.

Literally after SharePoint and Westlaw, it was my third bookmarked. I used it constantly and I realized how much of a need there was, and still is for state level academic writing and research. There are just so many fascinating, unique, novel, legal questions that are raised in state courts every single day. And groups like SSCI and SDRI are doing what they can to help courts answer those questions, but it's still difficult. And so, coming from a litigation and advocacy focused organization, and realizing what some of the gaps were that we needed to do our advocacy and litigation work, and coming to a research focused one, has been a really interesting way to contribute to this work on various levels, and think about how

each piece of it contributes to this larger ecosystem of what we're trying to build of robust state constitutionalism.

Kris Turner:

I am fortunate enough to be the SDRI's library liaison. And every time I get an email from you or one of your colleagues, I'm excited because it's a challenging, but as you said, novel question. And it really stretches my research abilities to the limits, which I appreciate. I will emphasize, I appreciate having those maintained and strengthened through all your questions and through all the research you are doing. By the way, I think we're going to rename this podcast, the Bridget Alphabet Soup Podcast based on the SSRI, SDRI. We'll keep it straight. I promise I will not trip up the rest of the podcast on those two.

Bridget Lavender:

I will do my very, very best not to trip up. I have started referring to SSCI just as the State Supreme Court Initiative, or when I was at the ACLU because otherwise it's too complicated.

Kris Turner:

Yes, there's too many letters in the alphabet I say.

Bridget Lavender:

Exactly.

Kris Turner:

SDRI, I will say, SDRI emphasizes state level democracy and public law at a time when a lot of legal discourse focuses on the federal government. What drew you to specialize in this particular area, state law, and why do you think it matters so much now?

Bridget Lavender:

In law school, I did a lot of work on reproductive rights. And at the time, the United States Supreme Court was increasingly willing to weaken the protections that were established in *Roe v. Wade*. And a lot of the attorneys I worked in within my internships or externships told me, they're like, "Roe is going to be overturned." And it seemed unfathomable to me at the time as a young law student. But, within that same context, around that same time, I also took a state constitutional law class offered at my law school.

And in that class, I learned about state constitutions, and how they could expand civil rights and liberties regardless of how the Supreme Court interprets the federal constitution. And then, I also just learned how cool state constitutions are. They have so many rights that aren't in the federal constitution. And so, for someone interested in civil rights, and justice, and litigation, and democracy, they were such an unexplored and incredible avenue to me.

I got really excited about the potential for state courts and state constitutions. And at the same time, I was also applying for clerkships. I ended up applying for and clerking on a State Supreme Court, which just cemented my interest in this area. You're talking about the interesting and novel research questions that SDRI sends to you. And as a clerk, I was getting research questions saying, "We as a court have never interpreted this law or this constitutional provision before, so we're writing on a blank slate. What do we do?" And that to me, I just didn't realize how much unanswered questions there could be in state law, because in federal law, most questions are answered, not all, but a lot of them. At the end of my

State Supreme Court clerkship, the Dobbs decision came down overturning Roe. And in that case, the Supreme Court had in some ways handed the issue of abortion and reproductive rights to the states.

And so, it became clear that reproductive rights and that fight would be continuing in state courts and under state constitutions. But, so many other issues are going down the same path. State constitutions have explicit voting rights, which is actually absent from the federal constitution, which surprises a lot of people. And they also include things like the right to an education, to a clean and healthy environment, to welfare, the right to hunt and fish. There's so much interesting stuff happening at the state level, and we pay so much attention to federal law, and I get it, because federal law does impact us and is important.

But, state law is kind of what most affects people, I think, on a day-to-day. State court is where most people get the justice that they need for harms that are done to them. And it's also much easier to effectuate change within state institutions. It's easier to amend a state constitution than it is the federal. It's easier to change the makeup of your State Supreme Court than it is the Federal Supreme Court. I think it's just such an important time to be studying this. And that details my path into finding this little incredible niche area.

Kris Turner:

The way that you've discovered how state constitutions can be amended, or changed, or how state Supreme Court justices can be nominated to their highest level is also such an amazing challenge of interest to me. But, now you have 50 different jurisdictions that do it 50 different distinct ways that can be extremely challenging to research. But also, it's so important for your work to see, okay, here's how it's done here versus here, and how these outcomes are so different.

Bridget Lavender:

Totally. Every state has its own framework for all of these things. Every state has its own constitution. And yeah, a lot of them look similar, but a lot of them have provisions that are wholly unique to them, or they have the same provision as another state, but they add in three extra words that changes the whole meaning, and they interpret it differently. They approach how they interpret it differently. There's 50 jurisdictions. There's just so much going on. It's really, really interesting, and there's so much unexplored research there to be done.

Kris Turner:

I like that term, unexplored research. We have job security, Bridget. Look at all this stuff we can work on for years to find all the unexplored niches, and nooks, and crannies of state level research.

Bridget Lavender:

I hope so.

Kris Turner:

I know so. I can feel it in my bones. One of the explanatory pieces from SDRI that you authored looked at whether states can regulate federal law enforcement use of masks during enforcement activities. What legal and practical challenges do states face in asserting power in areas where federal authority traditionally dominates?

Bridget Lavender:

Something that we think about a lot when it comes to regulating how federal officials do their jobs, which a lot of states are currently interested in doing, but have also always been interested in doing. States do have a somewhat limited role, and this comes from the supremacy clause of the United States Constitution, which says that federal law is supreme over conflicting state law. And to a certain extent, this makes sense, right? If states could criminalize federal agents who are just trying to do their jobs, they could thwart entire federal operations focused on civil rights, or environmental health, or whatever it might be. But, contrary to what some politicians have been saying recently, there is no absolute immunity for federal officials from state law. Federal officials are not generally immune from state laws. They still generally have to follow them. And the question is, where is that line drawn between ones that they're immune from enforcement, and ones that they do have to follow?

And that is ... That's a hard question in and of itself. Sometimes there are easy answers, and that's always nice. States can't pass laws that only affect federal officials that say all federal officials must do X, but nobody else has to. If a law blatantly discriminates against the federal government, that's probably going to violate the supremacy clause. But, usually, these laws don't just apply to the federal government. They're a generally applicable law. And so, in that situation, the analysis is harder, in part because these are such fact-specific inquiries, and in part, because the legal precedent is just murky, to say the least. And so, I think that the best way to explain it, if you'll indulge me in a hypothetical, is to consider the example of running a red light. If you imagine a federal law enforcement agent is driving a government vehicle, doing his federal government job, and he runs a red light, and he hits and kills a pedestrian, the state charges him with a crime, maybe it's involuntary manslaughter, vehicular homicide, depends on the state, depends on the facts, depends on the prosecution.

Is the agent able to claim immunity under the supremacy clause for that situation? It really just depends. And it depends mostly on why the agent ran the red light. If the agent ran the red light just because, or because he was impatient, he thought he could run it safely, there was no one else around, whatever, he can probably be prosecuted. That's not a really good reason, right?

But, if he ran the red light because he was pursuing a fleeing suspect as part of his job, and he reasonably thought that running the red light was necessary to do his federal job, then he probably can claim immunity. The supremacy clause basically says that with any state law that impacts or burdens the federal government, the question basically boils down to ... It's more complicated than this, but it basically boils down to what extent does this state law prohibit the federal agent from doing his or her job?

And that also means asking, to what extent does the federal agent need to do X in order to do their job? And that is a fact-specific, really tricky analysis that courts have come out a whole bunch of different ways based on a whole bunch of different factors, and we're still waiting to see how courts come out in 2026 on some of these niche and not very often ... They're not new legal issues, because these issues have been around for centuries, but they're being applied in new contexts, and arising more than they have in my lifetime so far, so it's an interesting area. I hope that answered your question.

Kris Turner:

It absolutely did. I'll ask one follow-up question.

Bridget Lavender:

Please do.

Kris Turner:

You mentioned there were sometimes easy answers. Can you give us a sneak peek of whether there was an easy answer or not for use of masks during enforcement activities from your explainer?

Bridget Lavender:

There's no easy answer on use of masks. I think there are good arguments on both sides. We can get into it, but no, that issue has not been considered. And I think there are arguments that regulating federal officials from wearing masks is regulating federal officials and how they do their jobs. And I also think there's good arguments that wearing a mask isn't really necessary to do the job, and isn't really part of the federal job. There's a federal district court in California that's considering that issue right now, and we're waiting to see what that court's ruling will be, but this issue is sure to come up with some of the other mask bans and other state laws we're seeing proliferate, especially given the unrest happening in Minneapolis right now.

Kris Turner:

Certainly. I think one thing I appreciate deeply about your research is it provides so much nuance, and context, and shades of gray to what's something that people want to take just at face value, and these things are much more complicated than that. And these explainers really lay it out for the reader about why that nuance has to be considered, especially across all these different state level jurisdictions. Hi, this is Kris and I have an update. In our podcast recording, Bridget and I discussed a California court case that was examining legality of banning masks on federal agents. Since our recording, there has been a decision issued by the California courts. Bridget has updated her explainer to discuss this court decision, so if you're interested in more details, be sure to check that out. Now, I return you to our previously recorded conversation. Do you have some real world examples perhaps from recent litigation or state legislation where states have successfully pushed back against federal outreach, or enforcement, and what made those efforts effective?

Bridget Lavender:

Yeah. One obvious example is states stepping in to fill the gap in rights protection when the federal government pulls back. And honestly, perhaps this is better thought as pushing back against federal under reach in a way, because we saw in the wake of the Dobbs decision, just to go back to that example, we've already talked about, states responded in a variety of ways. Many state legislatures passed laws protecting reproductive rights. Other states added constitutional amendments, enshrining reproductive rights into their constitutions. Some State Supreme Courts just rejected the federal court's reasoning under their existing state constitutions. There's a lot of ways that we've seen states successfully respond to federal law, or decisions that they disagree with, especially when it comes to increasing protection. Pushing back against this kind of under reach, under protection as a way to frame it. And we're seeing that play out with LGBTQ rights, voting rights, environmental rights as well.

Another example is just lawsuits filed by states against the federal government. State AGs can and do sue the federal government all the time. States can also band together and form multi-state bans to sue the government if they disagree with their policies. And this happens all the time. But, two recent successful examples, recent-ish, is states were successful in their lawsuits against President Trump's first travel ban in 2017. That was a successful pushback against federal over reach. And then, a couple of years later, a handful of years later, states also got the Supreme Court to overturn President Biden's student loan debt relief plan. Those are two examples of states on opposite political ideological spectrums pushing back against federal government action that they thought overstepped the federal government's legal authority.

Kris Turner:

SDRI produces scholarly research briefs, explainers, and convenings, so many great things that are coming out of SDRI. How do you think this kind of academic work translates into real-world impact for courts, policymakers, and communities?

Bridget Lavender:

I think SDRI is incredible, not to toot our own horn, but I'll toot the rest of the team's horn, because they've been doing this for years even before I got here. But, I think that the work translates into a real impact in a variety of ways. When it comes to courts, which is one of the things we often think about with law, obviously, SDRI often files amicus briefs on behalf of law professors who can help a state court or a federal court with a specific state law issue or a state's constitutional law issue that is thorny and difficult to figure out. And like you said earlier, it's nuanced. There's sometimes black and white answers, but a lot of times, there's a lot of gray, and it can be hard to parse through. And so, I think that those briefs are really helpful. And we've heard from courts that those briefs have been helpful in how they approach their thinking on those cases.

When I was clerking on a State Supreme Court, I know we read all the amicus briefs really carefully, and so, I know that that work is helpful for the clerks. I know that the justice I was clerking for would read them and consider them as well. But, I also think that our work helps. It informs the courts, and we try to do that, and we make a concerted effort. But, I also think it helps inform the arguments that the parties make in courts, whether or not they cite to us, because maybe our answer is more gray, and they want it to be black or white.

But, when I was at the ECOU, I would read publications and research from SDRI, and it absolutely helped inform some of the litigation work that I was doing, and that my colleagues were doing. On the policy side, we've been really fortunate to connect with state and local policymakers who have questions about our research, or want to know how they can implement a certain policy. I mentioned earlier, I've testified in front of one state's legislative committee, for example, on state responses to immigration, federal immigration enforcement.

My colleagues have been on calls with many other policymakers helping to explain our research and its practical implications. And I also, to go to the community aspect of it, I really hope and think that our work has an impact in different communities. Just what you were saying earlier, I really appreciated, because it's something we care a lot about, and really try to do is to take really thorny legal issues, and questions, and try to break it down for folks in an unbiased and academic way that accurately reflects the state of the law, even if the state of the law is confusing. And even if the state of the law has some nuance, or maybe some even inconsistencies in how different courts have applied things, there's a lot of misinformation out there and I'm really happy to be at a place like SDRI that focuses on giving people the knowledge and understanding they need on a wide variety of issues without trying to tell them, state courts, you should do this, or state legislatures, you absolutely should pass this.

Our work I think is equally helpful for Blue States trying to push back against a Red Administration as it is for Red States trying to push back against the Blue Administration. And I think having a place that you can trust to give you that kind of unbiased, straightforward, really thorough research is really valuable. And it was for me before I came here, and now I'm really happy to be a part of putting that out there.

Kris Turner:

My experience as a librarian, people are sometimes starved for a place that they can trust that provides this unbiased source of information. And I think it's incredibly beneficial of SDRI to provide just that kind of information, especially to courts, to judges, to everybody because they just don't know. And I think

one other thing that you just said struck me that you have an impact on the filings, even if they don't directly cite to you. I think that's an important thing where they think that's a gray area, but I like that how it's shaping what I think to make a point that I want to make in my brief. And I think that that is a way that your impact is not as measurable in some ways, but it still is a very deep impact, because you are affecting change, and affecting minds, and affecting writings in that way, which is so cool.

Bridget Lavender:

Thank you. Yeah, it's a pretty cool job. I'm not going to lie.

Kris Turner:

Yeah, we can agree on that one. There's my next tough question for you. Is this a really cool job?

Bridget Lavender:

Yes.

Kris Turner:

Period.

Bridget Lavender:

Period.

Kris Turner:

Easy answer on that one. How about this? I'm curious if you've had any surprises in your research. Has there been any findings that you've done research or writing that have come up that have stood out in your mind?

Bridget Lavender:

Oh, my gosh, I feel like I find surprises all the time. It's hard because all of these issues are so nuanced and difficult. And I feel like I find surprises a lot in court just not agreeing with each other. And I feel like I know that that happens, and this is maybe a simplistic answer. But, I feel like when you're in law school, or before you go to law school, when you think about the law, courts are an amorphous group, and the courts tell you what the law is, and what you can and can't do. And then, you go to law school, and you realize courts disagree with each other a lot. And depending on where they are in our federalist system, depends on whether or not they have to listen to each other. And it's so interesting to find a legal issue that one court says it's well settled, that this is the answer, and this is how it should be.

And so, I'm writing my research, and I say, "Okay, cool, this is well settled and whatever." But then, obviously, I'm thorough, I'm diligent, I do some more research, and then I find another court that's exactly the opposite, and is like, "This is how it should be." And maybe that's a simplistic surprise, but I think the amount of unsettled questions in the law, to go back to something we talked about earlier is always surprising to me. Even though I've been working in this space for several years, it's always surprising to me, because you just assume sometimes that some of these questions that have been around for a long time, surely they've been addressed, surely someone else has had this question, surely this has come up before. And maybe it has, but it might not have been answered. And if it has been answered, maybe it was answered in a different context that might not apply with the facts that you have.

And so, I think just the levels of nuance that you continue to unpack every time you think you're getting closer to an answer, it splits off into different paths again to explore. That makes it really, really exciting. But, it also makes it difficult, because it can be hard to tell when is our research done, when are we fully accurately explaining the status of the law when different courts disagree about what the law is?

Kris Turner:

That's a challenge that I see all the time with students to a lesser extent when they are first introduced to the law like you were just saying, Bridget, which way do I go? I thought this was well settled. I thought we would find an answer. And the answer is that, as you said earlier, it depends, on the jurisdiction, on the concept, on the facts, on the principles, on the time. And that is consistently surprising to the students, to me, to everybody about how this just changes, and it does not seem as well settled. As we said earlier, the surprises lead us to further opportunities for great research, but also to the challenges and joys of legal work in general.

Bridget Lavender:

Absolutely, absolutely. And people make fun of lawyers all the time, ask a lawyer a question, and their answer's always going to be, it depends. And I do find myself saying that pretty often in this work. And it's just funny to come full circle back to that lawyerly joke that people tell you before you go to law school, and then you realize it really does depend sometimes.

Kris Turner:

There's definitely more than a seed of truth in that little joke that I have found as well.

Bridget Lavender:

Exactly.

Kris Turner:

What's next for SDRI? Are you exploring more state checks on federal outreach? Are there other emerging projects or themes that you're excited about?

Bridget Lavender:

Yeah, definitely. There's, like we said, so much exciting work to be done in this space. Gearing up for the 2026 midterms, and the 2028 elections, you can definitely expect to see more work in that sphere, because states have so much power and oversight over running their elections, and the federal constitution tasks them with overseeing and regulating elections. And so, we'll definitely be tracking work that's going on in that sphere, and clashes with federal government, and federal powers that may or may not arise as these elections go underway. We'll also be tracking ongoing efforts to reign in federal law enforcement in states. This includes mask bans, but other similar laws that might be targeted at federal immigration officers, or other federal officers, or actors, and tracking to see how courts approach some of these novel issues, and what that might tell us about the validity of future attempts.

And then, we're also thinking a lot about the role of different state institutions. What power do governors have, for example, or state election boards? There's really no shortage of interesting topics to explore, but those are some of the main themes that we are currently thinking of. And if anyone has

thoughts after listening to this on what we should be researching or something we should be looking into, I'm always all ears.

Kris Turner:

What a wealth of potential resources that are available out there. Here's my takeaway. You or one of your SDRI colleagues will have to come back on the podcast to revisit this, and discuss what further work is accomplished in the coming weeks, months, and years.

Bridget Lavender:

Sounds great. Yeah, I'm always happy to return, and my colleagues have excellent things to say as well. I learn so much from them every single day. It's one of the best parts of the job is just the people I get to work with at UW, but specifically in SDRI, so highly encourage you to get more SDRI folks on the podcast.

Kris Turner:

There you go. Everyone that's listening to this heard that verbal contract that we'll have more SDRI folks on the podcast very soon. Bridget, thank you again for joining the podcast today. I've always enjoyed working with you and your SDRI colleagues as we've talked about. Your work has already had a significant impact clearly on courts and communities across the US. I'm excited to see what the initiative in general and you in particular will be producing next.

Bridget Lavender:

Thank you so much, Kris, and we really appreciate all of your help. You make SDRI's work possible, so we're really grateful for you and the UW community.

Kris Turner:

Thank you. The pleasure is all mine and all of ours. That was Bridget Lavender, staff attorney at the State Democracy Research Initiative. We'll link out to SDRI's homepage and all those other great resources we mentioned so you can learn more about their prodigious and important work. Thank you all for listening. This was Wisconsin Law in Action from the University of Wisconsin Law School. To hear more conversations with our faculty about their research and its real world impact, visit wilawinaction.law.wisc.edu. You can stay up to date on Wisconsin Law School's scholarship by subscribing to this podcast via the Apple iTunes store or follow the Wisconsin Law School on whatever social media you may be on for updates on faculty news and publications. I'm Kris Turner. See you next time. Happy researching!