

The Politics of Selecting the Bench from the Bar: The Legal Profession and Partisan Incentives to Politicize the Judiciary*

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Abstract. Using a newly collected dataset that captures the ideological positioning of nearly half a million judges and lawyers who have made campaign contributions, we present empirical evidence showing politicization through tiers of the judicial hierarchy. We show that the higher the court, the more conservative and more polarized it becomes, in contrast with the broader population of attorneys, who tend to be liberal. We also find that judicial selection systems relying on gubernatorial or legislative appointments are the most politicized. These findings suggest that political actors take opportunities to use ideology in the selection of judges, but that they strategically prioritize higher courts. To our knowledge, our study is the first to provide a direct ideological comparison across tiers of the judiciary and between judges and lawyers, and also the first to document how—and why—American courts are politicized.

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1 Introduction

The implications of a politicized judiciary in a polarized era of American politics have been a matter of considerable interest. Reflecting the notion that the courts will take on an expanded policy-making role during periods of intense legislative gridlock (McNollgast, 1995; De Figueiredo, Weingast, and Jacobi, 2006; Bailey and Maltzman, 2011), recent years have seen U.S. courts adjudicate and determine state and national policy on some of the most politically charged controversies of the day, including campaign finance, affirmative action, health care reform, and same-sex marriage. The business of selecting judges has also become ideologically contentious, both at the state and federal levels. The American Bar Association (ABA), for example, has long maintained that judges should be chosen strictly on “merit-oriented” criteria, while many on the right have challenged whether the ABA is truly non-partisan and emphasize the need to correct for political imbalances in the legal community. These battles have gone all the way to the White House. In 2001, for example, the George W. Bush Administration announced that it would no longer rely on what it perceived to be liberally biased ABA judicial ratings, while Democrats sided with the ABA and accused Bush of interjecting politics into the courts. Taken together, these issues have generated increasing criticism of the courts as overly politicized (e.g., Liptak, 2014; Stone, 2014) and could be linked to ideologically based evaluations of the courts (e.g., Bartels and Johnston, 2013).

Despite the apparent politicization of the courts and of judicial selection, our knowledge of how, when, and why American courts become politicized is extremely limited. Indeed, although important scholarship has looked at closely at ideology, particularly at the Supreme Court (Martin and Quinn, 2002; Bailey, 2007; Clark and Lauderdale, 2010; Lauderdale and Clark, 2014) and other federal courts (Epstein et al., 2007), and its strong relationship with decision making (e.g., Epstein, Landes, and Posner, 2013), studying politicization across the different tiers of both federal and state courts has proved challenging from an empirical standpoint. In addition, although it is clear that ideology is important in the selection of judges, it has been difficult to develop a consistent theory and empirical evaluation of judicial selection that also explains the parties’ strategic

interests in light of both different judicial selection systems and variation in the ideological composition of the candidate pool. Nonetheless, as the examples of same-sex marriage and health care reform clearly show, understanding the puzzle of how courts become politicized is of fundamental importance, providing the necessary context for the more well-studied relationship between politicization's effects on judicial decision making (e.g., [Epstein, Landes, and Posner, 2013](#); [Sunstein et al., 2006](#)).

In this paper, we develop both a theory and the first comprehensive exploration of judicial politicization, which we take to be the degree to which politics and ideology matter in determining the composition of the American judiciary. We gain traction on the question by starting with the important fact that all judges in the U.S. are former lawyers, which we incorporate into a theory of judicial politicization. The theory assumes that the ideological composition of the judiciary is a function of, among other things, two key inputs: (1) the ideological distribution of the pool of attorneys eligible to serve as judges and (2) external political forces (e.g., politicians) attempting to shape the judiciary. Left to a judicial selection process devoid of ideological considerations, America's courts should, after controlling for relevant demographic characteristics, closely resemble the population of attorneys from which they are drawn. However, as politics become an increasingly important consideration in judicial selection, the courts will more closely resemble the ideological preferences of politicians.

We use this theoretical intuition to explore (1) the extent to which courts are—or are not—representative of their constituent group of lawyers and (2) partisan strategies and rhetoric regarding judicial selection. We do so by linking together two novel sources of data. The first is a newly collected data set that includes nearly all of the nation's attorneys, gathered from the Martindale Hubbell legal directory. The second is the Database on Ideology, Money in Politics, and Elections (DIME) ([Bonica, 2013](#)). Combined together, these data allow us to identify the campaign contributions—and corresponding ideological common-space scores—for 395,234 U.S. lawyers and judges. As such, these data represent the first comprehensive, consistently measured set of ideological estimates for judges across the judicial hierarchy. These data not only allow us to compare the ideologies of various tiers of the American judicial system but also to compare judges to attorneys at both the state and national level.

We use these data to make several contributions that expand our knowledge of politicization in the American judiciary. First, we show that lawyers are more liberal than the general U.S. population. Second, we show that judges as a whole are more conservative than attorneys. This is particularly the case among (1) judges who sit in higher, more politically important courts—such as state high courts and the U.S. Courts of Appeals and (2) among judges who are appointed via gubernatorial or legislative appointments processes. Moreover, we find that some states show signs of politicization while others do not, and that this is closely tied to judicial selection methods, which vary both within and across states. We show that, after controlling for attorney ideology, judicial ideology is highly sensitive to the preferences of politicians when selected via gubernatorial appointment or partisan elections but insensitive to the preferences of politicians when selected via merit commissions or non-partisan elections. This in turn suggests that political actors not only rely on ideology in the selection of judges onto courts, but that they do so in a manner consistent with our theory of politicization. Specifically, parties will move to politicize courts when (1) there exist expected benefits to their party associated with politicization, (2) when the jurisdiction’s selection process affords them the opportunity to politicize, and (3) when it concerns the most important courts.

This paper proceeds as follows. Section 2 presents a theoretical framework for judicial politicization, which we use to generate testable hypotheses. In Section 3 we discuss the two newly collected data sets used. We use these data in Section 4 to demonstrate that U.S. lawyers as a whole are quite liberal. We present evidence showing that judges are more conservative than U.S. lawyers in Section 5, followed by a comparative analysis of jurisdictions in Section 6. Section 7 discusses how these findings vary according to the selection mechanism used, while Section 8 shows that higher courts exhibit more politicization than lower courts. We conclude in Section 9 by noting how this research reshapes our understanding of judicial politicization. Additional robustness checks are presented in the Appendix.

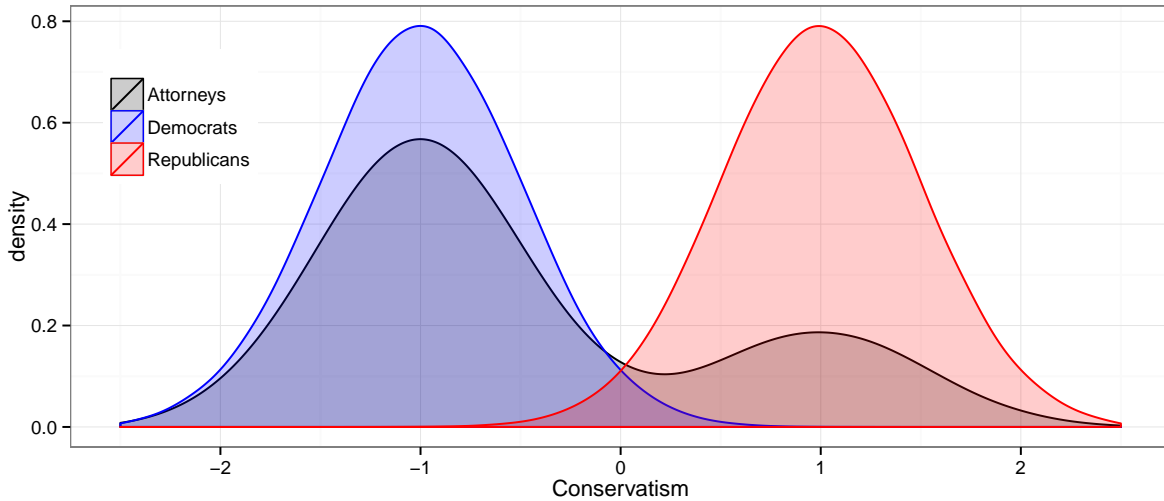


Figure 1: Hypothetical ideological distributions of the attorneys and partisan elites.

2 How and Why Attorney Ideology Explains Judicial Politicization

The prominence of lawyers in political office is a distinctive and enduring feature of American democracy, dating back the nation’s founding. While lawyers are heavily overrepresented in most areas of politics, the courts differ from other branches of government in being drawn exclusively from this narrow segment of society. Today, all state supreme court justices are former lawyers, and 48 states explicitly require that their high court justices be former lawyers. All judges currently serving on the federal courts are former lawyers, as are the nine Supreme Court justices. Selecting the bench from a narrowly defined population, comprising just 0.4% of the voting age population, has broad implications for judicial politics that have yet to be fully explored.

The basic theoretical framework we present below characterizes the ideological composition of the judiciary as a function of (1) the ideology of attorneys, (2) the ideology of political actors, and (3) the level of politicization of judicial selection. We use the framework to generate several testable predictions about the incentives and consequences of efforts to politicize the judiciary.

A Simple Illustration of Politicization. Given the widely accepted belief that judges affect policy and policy implementation, the parties have incentives to seat judges that share their preferences (Ferejohn, 2002; Epstein and Knight, 1998; Maltzman, Spriggs, and Wahlbeck, 2000). We adopt a

functional definition of judicial politicization, which is *the extent to which judges are selected on the basis of their partisanship or ideology*.¹

Consider a simple hypothetical configuration of preferences across (1) political actors and (2) attorneys, shown in Figure 1. The parties’ ideologies follow a bimodal distribution, with Republicans on right and Democrats on the left. In terms of the bar’s interests, we consider as a starting prior that lawyers are to the left of the general population (supported by [Trial Lawyers Inc, 2013](#); [McGinnis, Schwartz, and Tisdell, 2004](#); [Chilton and Posner, 2014](#), but, as we later show, a pattern supported by our analyses). Under a scenario in which judges are selected for reasons unrelated to ideology (and perhaps exclusively on merit grounds), judicial politicization would be minimal and judges would be drawn more or less randomly from the population of attorneys shown in Figure 1. In such a scenario, *the liberal skew in the preferences of attorneys would result in a judiciary that more closely resembles the preferences of Democrats*. That is, any such liberal bias in the attorney pool serves to advantage Democrats. This, in turn, is likely to shape the parties’ incentives and strategies regarding the judiciary. As we show below, this simple example captures what we see across many jurisdictions.

A Partisan Representation of Judicial Politicization. We expand the intuition by including some notation and addressing merit concerns.² For a given jurisdiction, let $X_a = [x_{a_1}, x_{a_2}, \dots, x_{a_N}]$ be a vector of attorney ideal points. The empirical distribution of attorneys can be estimated using a weighted kernel density estimator,

$$\hat{a}(x_a|w_a) = \frac{1}{\sum_{i=0}^{N-1} w_{a_i}} \sum_{i=0}^{N-1} w_{a_i} K_h(x_a - x_{a_i}), \quad (1)$$

where w_{a_i} is a vector of *merit* weights that capture eligibility and valence and h is a bandwidth parameter. For those failing to meet eligibility requirements for the bench, the weights will be set

¹ This is one of many possible conceptualizations of judicial politicization. Other definitions may consider the use of policy preferences in judicial decision making or the degree to which ideology is invoked in the course of judicial confirmations, elections, or appointments. Our operationalization aims to explicitly link politicization to judicial selection, using the intuition gleaned from comparing the judiciary to the pool of potential judicial candidates.

² For a more qualitative discussion of similar points, see [Fitzpatrick \(2009\)](#).

to zero. The merit weights capture that attorneys deemed to be more experienced, competent, or otherwise qualified have a greater propensity to become judges.

Let $\hat{d}(x_d|w_d)$ and $\hat{r}(x_r|w_r)$ be the densities of politicians from the Democratic and Republican parties, with $\hat{p}(x_p|w_p)$ representing the joint distribution of politicians from both parties, where w_p weights politicians with respect to their relative power over the selection process. The assumption that efforts to politicize judicial selection are drawn from a weighted distribution of politicians reflects that, once politicized, outcomes will reflect the partisan balance of power in the legislative and executive branches.

Given the distributions for attorneys and politicians, we derive a simple formulation whereby judges are drawn from the finite mixture, $\hat{j}(\cdot) = (1 - \omega)\hat{a}(\cdot) + (\omega)\hat{p}(\cdot)$, where ω is a **mixing parameter representing the level of politicization**. Under no politicization ($\omega = 0$), judges will be sampled from $\hat{a}(\cdot)$ and mirror the distribution of attorneys. Under the scenario of complete politicization ($\omega = 1$), judges are strategically sampled from $\hat{p}(\cdot)$ such that the judiciary mirrors the distribution of politicians.

The payoffs for the parties are defined as the ideological overlap between its members and the judiciary. Given two densities, $f(\cdot)$ and $g(\cdot)$, the overlap coefficient is calculated as the ratio of the shared area between them.

$$\Delta(f, g) = \int \min \{f(x), g(x)\} dx \quad (2)$$

A party attains the maximum payoff when the distribution of judges perfectly overlaps the distribution of its members. Payoffs are balanced against the costs associated with efforts to politicize the judiciary. The parties pay a private cost, $c(\tau)$, associated with the opportunity cost of the organizational resources expended on recruitment efforts and navigating the nomination process and/or supporting the campaigns of judicial candidates, where τ , or the *resource rate*, represents the percentage of a party's total organizational resources devoted to politicization efforts. These resources would need to be diverted from other party building activities.³

³ Although we do not consider costs construed more broadly here, efforts to politicize judicial selection could risk incurring reputation costs for the party, if the standard tactics and potential disruption to the courts are viewed unfavorably by voters (Caldeira, 1986; Binder and Maltzman, 2009). Moreover, politicization might also incur societal cost by threatening the institutional legitimacy of the courts (Nicholson and Hansford, 2014).

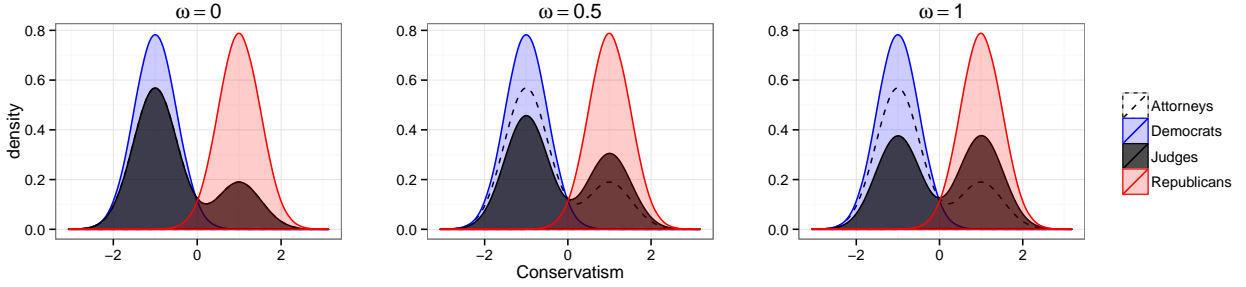


Figure 2: Distributions of judges at varying levels of ω .

The utility function for each party can be expressed as an additive function of the overlap coefficient and the cost function,

$$U_d = \Delta(\hat{d}(\cdot), j(\omega(\tau_d + \tau_r) | \hat{a}(\cdot), \hat{p}(\cdot))) - c_d(\tau_d) \quad (3)$$

$$U_r = \Delta(\hat{r}(\cdot), j(\omega(\tau_d + \tau_r) | \hat{a}(\cdot), \hat{p}(\cdot))) - c_r(\tau_r) \quad (4)$$

where ω and $c(\cdot)$ are both assumed to be strictly increasing in τ .

As an illustration of how attorney preferences can inform the parties' strategies, Figure 2 shows three distributions of $\hat{j}(\cdot)$ at different levels of ω assuming the same configuration of preferences as the one shown in Figure 1. As evidenced by the noticeably higher overlap at $\omega = 0$, a strictly non-politicized judicial selection process yields a better payoff for Democrats than it does for Republicans. Democrats obtain their best possible outcome when $\omega = 0$ and $c_d(\cdot) = 0$. That is, they do best when external political considerations are kept out of the judicial selection process entirely. Republicans, on the other hand, have incentives to politicize the judiciary. Their Democratic counterparts, the face the optimization problem,

$$\arg \max_{\tau_r \in [0,1]} : \{ \Delta(\hat{r}(\cdot), \hat{j}(\omega(\tau_r) | \hat{a}(\cdot), \hat{p}(\cdot))) - c_r(\tau_r) \} \quad (5)$$

As such, the value of ω is set at the point where marginal costs equal the marginal benefits for the party that stands to gain from increased politicization.

As we show below, the observed empirical distributions of $\hat{a}(\cdot)$, $\hat{r}(\cdot)$, and $\hat{d}(\cdot)$ correspond quite closely to the stylized distributions used in the example.⁴ Insofar as attorneys are more liberal than

⁴ Of course, this represents one of many possible preference configurations. In fact, as we later show, in several states the average attorney is actually to the left of the average Democratic politician, creating incentives for both parties to politicize selection.

politicians, efforts to politicize the judiciary will result in a rightward shift in the distribution of judges. This forms our main prediction:

Hypothesis 1: Increased politicization will result in a rightward shift in the judiciary compared to attorneys if $E[\hat{a}(x_a|w_a)] < E[\hat{p}(x_p|w_p)]$.

As the courts become more politicized, the distribution of judges will look less like the underlying population of attorneys and more like the population of politicians. If the average attorney is to the left of the average politician, the resulting shift will be in a conservative direction.

This baseline model successfully captures much of what is observed with respect to the partisan struggle to shape the judiciary. Below, we consider several extensions to the model that yield additional predictions and insights.

Strategic Recruitment. Thus far, we have assumed $\hat{j}(\cdot)$ weights all judges equally. Perhaps a more realistic assumption given the hierarchical structure of the judiciary is to weight judges with respect to the political importance of the court on which they sit, such that $\hat{j}(x_j|w_s)$ where w_s is the weight for judges sitting on court s . Assuming that w_s increases as one moves up the judicial hierarchy—e.g., federal circuit court judges receive greater weight than federal district court judges—and that parties have some discretion in prioritizing certain courts over others, it follows they will focus their recruitment and nomination/campaigning efforts on the highest courts. This implies that the effects of politicization will be felt first and foremost by the upper tiers of the judiciary and extend down the judicial hierarchy only as resources allow. This forms our second hypothesis:

Hypothesis 2: The distributional shifts will be greatest at the higher courts and diminish moving down the judicial hierarchy.

Politicization and Demand for Conservative Judges. From the vantage point of lawyers with judicial aspirations, their career prospects can be understood in the context of the model as being jointly determined by their qualifications and ideology. The model generates predictions about

how the probability of being selected changes with ω given values of x_a , which can be expressed as a ratio.

$$Pr(Judge) \propto \frac{\hat{j}(\cdot)}{\hat{a}(\cdot)} = \frac{\omega \hat{p}(\cdot) + (1 - \omega) \hat{a}(\cdot)}{\hat{a}(\cdot)} \quad (6)$$

The equation states that the change in the likelihood of becoming a judge is proportional to the ratio of population densities evaluated at x_a . In other words, politicization improves the prospects of joining the bench for attorneys in areas along the ideological spectrum that are underpopulated relative to politicians. Combined with the results stated above, this yields the following prediction:

Hypothesis 3: Controlling for qualifications, conservative attorneys will be more likely to become judges when judicial selection is politicized.

This suggests that politicization translates into a form of career advantage for attorneys with judicial aspirations and political views that are underrepresented among members of the bar, especially when it comes to serving on the nation’s most prestigious courts.

Judicial Selection Mechanisms. Our final extension considers how institutional arrangements for selecting judges interacts with efforts to politicize the judiciary. Specifically, we consider how judicial selection mechanisms might facilitate (or present obstacles to) politicization, thereby affecting the expected returns on party resources. The debates over reforming judicial selection often center on beliefs about what role, if any, politics should play in selecting judges. Proponents of non-partisan elections often promote the system as a way to provide voters with a direct voice in selecting judges while limiting the influence of partisanship. Similarly, one of the main arguments made in favor of merit/nominating commissions is that they insulate the judiciary from external political pressures placing limits on partisan-minded governors who might otherwise use their appointment powers to their political advantage.

One way to incorporate selection methods is to model ω as a joint function of institutions and organizational resources,

$$\omega(\pi, \tau) \sim g(\pi_{k_0} + \pi_{k_1} \tau), \quad (7)$$

where π_{k_0} parameterizes the natural rate of politicization and π_{k_1} captures the sensitivity to changes in τ associated with selection method k ; and $g(\cdot)$ is a bounded function ranging from 0 to 1. This allows for a range of possible scenarios depending on the estimated values of π_{k_0} and π_{k_1} . On the one hand, finding that the parameter values are indistinguishable across selection methods suggest that the choice of judicial selection methods is unimportant to the politicization process. On the other hand, finding that the parameter values vary substantially by selection method would suggest the judicial selection methods are central to the process. Ideally, we would be able to treat π_0 and π_1 as parameters to be estimated. Unfortunately, this is not possible without direct measures of τ . Our measures do, however, allow us to gauge whether judicial ideology is more or less sensitive to the preferences of politicians under certain selection methods, which we explore below.

3 Lawyers and Campaign Contributions Data

We conduct our empirical analysis using data from two sources: (1) the Database on Ideology, Money, and Elections (DIME) and (2) the Martindale-Hubbell lawyers' directory. Robustness checks and details regarding record-linkage are provided in the Appendix.

3.1 Database on Ideology, Money in Politics, and Elections

The Database on Ideology, Money, and Elections (DIME) database reports DIME scores (also known as “common-space CFscores”) for all individuals and organizations making campaign contributions to state and federal candidates from 1979–2012. (A detailed discussion of DIME is provided in [Bonica \(2014\)](#); we provide only a brief overview.) The scores are calculated by leveraging the fact that someone contributing to a liberal/conservative candidate is more likely to be liberal/conservative herself. They provide ideological estimates for individual donors and place them in a common space with other candidates and organizations spanning local, state, and federal politics.

The primary advantage of DIME is in the breadth of data. Several measures based on revealed preferences for the U.S. Supreme Court do exist ([Clark and Lauderdale, 2010](#); [Bailey, 2007](#); [Martin and Quinn, 2002](#)). However, measuring ideology is more difficult at the lower-court level, owing

to the fact that judges only occasionally sit together to decide cases. Estimates of lower-court ideology have therefore relied on the identity of the appointing President, or, in instances where Senatorial courtesy applies, the ideology of the senior home-state Senator (e.g., [Boyd, 2011](#); [Epstein et al., 2007](#); [Giles, Hettinger, and Peppers, 2001](#)). Not only does DIME allow the estimation of ideal points of any lawyer in the database based on revealed preference data, but it also provides a consistent measure across tiers of the judiciary, including across federal lower-court and state judges.

We note two potential concerns with using the DIME data. The first is that donors may differ from non-donors ([Tausanovitch and Warshaw, 2013](#)), and, despite the high participation rates, this self-selection into the donor population could bias results. To address these concerns, we employ a Heckman correction, which under certain conditions can estimate model parameters even in the face of non-random selection into the donor population ([Heckman, 1979](#)). Details on the selection model can be found in Appendix Section [B](#). We present results without correcting for self selection in Appendix Section [I](#), finding results that are substantively identical to the ones we present here.

Another concern stems from speculation that lawyers might give for strategic reasons, leading them to support candidates with whom they disagree. There is little empirical support for the prevalence of such behavior among individual donors. Instead, the primacy of ideological considerations for individual donors has been corroborated by observational data ([McCarty, Poole, and Rosenthal, 2006](#); [Ensley, 2009](#); [Ansolabehere, de Figueiredo, and Snyder, 2003](#); [Bonica, 2014](#)) and surveying donors about their contribution decisions ([Barber, N.d.](#)). The DIME scores have also been shown to be a valid measure of judicial ideology for state supreme court justices ([Bonica and Woodruff, 2014](#)). With regard to lawyers, one potential concern is that lawyers could face pressure to contribute to the campaigns of sitting judges with whom they disagree out of concern for their careers. However, when we re-estimate the DIME scores for lawyers with contributions to judicial candidates excluded, the resulting scores correlate with the original scores at 0.99. This leads us to conclude that the special relationship between lawyers and judges has little bearing on the estimated ideal points. We provide additional results on measure validation and robustness checks tailored to proposed strategic incentives that are specific to lawyers in Appendix Section [D](#). We find no evidence that lawyers behave differently than other donors.

3.2 Martindale-Hubbell Lawyers' Directory

Our next task is to identify individual lawyers and judges in the DIME data. To identify attorneys, we turn to the Martindale-Hubbell Law Directory, a comprehensive database of attorneys that has been published continuously since 1931. The Martindale-Hubbell data draw on state bar directories, law firm listings, professional organizations, and other publicly available data sources to maintain its database. The directory is widely viewed as among the most authoritative and comprehensive source of information on the nation's attorneys (Whisner, 2014). Although historical data are available, the database used here represents a snapshot of the population of active legal professionals as of 2012.

While the amount of information available varies by attorney, a minimal entry includes information on (1) name, (2) professional address, (3) date of bar admission, (4) law school attended, and (5) employer type. In total, the Martindale-Hubbell directory contains entries for 974,448 individuals. This includes 890,039 attorneys in private practice, 42,510 serving as in-house counsel at corporations and other private institutions, 10,527 government attorneys, 25,929 judges, and 5,444 law professors. We explain the record-linkage algorithm in Section A in the Appendix.

4 Ideology of Attorneys

Figure 3 displays the ideological distribution of the nation's attorneys along with the estimated ideal points of several well-known political figures. It shows that *attorneys are by and large left of center compared to other mainstream political actors*; substantively, the median attorney is ideologically proximate to political actors such as Andrew Cuomo or Bill Clinton. This is confirmed by Table 1, which presents results from second-stage OLS models corrected for selection bias (as discussed in Appendix Section B), with estimated ideology as the outcome measure. (Uncorrected estimates are presented in Appendix Section I; the results are substantively similar.) Throughout all of the analyses, a negative coefficient indicates increased liberalism, while a positive coefficient indicates increased conservatism. We include two models, with Model 2 controlling for district-level two-party presidential vote shares in the 2008 elections to account for geographic variation in preferences .

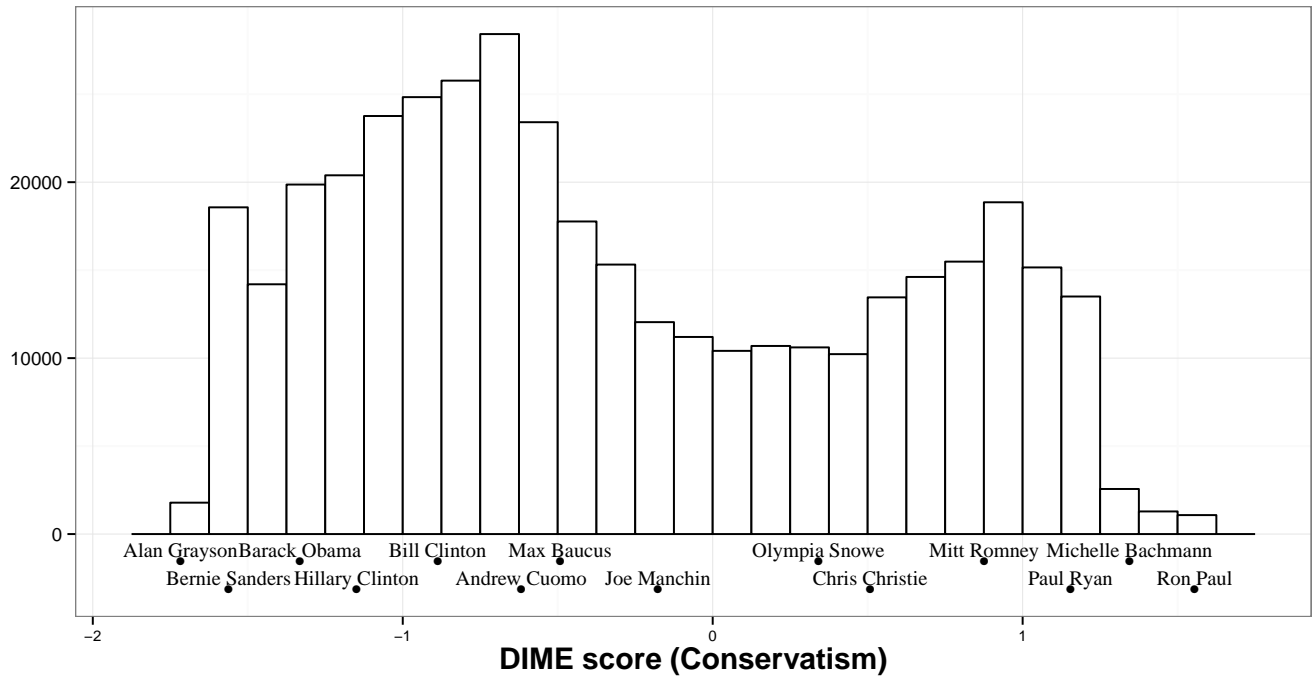


Figure 3: Ideal Point Distributions for Attorneys and Other Political Actors. Note: Increased value of DIME score indicates a more conservative ideology.

As the Table shows, the distribution of attorneys varies in meaningful ways across areas of employment, demographic characteristics, and geography. For example, female lawyers are more likely to be liberal, as are law professors, public defenders, and government lawyers. On the other side, those who work in “Big Law” firms as well as those who are identified as partners are more conservative. We also see increased conservatism associated with time since bar admission, suggesting that older lawyers are more conservative. The ideological distributions of lawyers also vary meaningfully from state to state, an important point for our discussion of politicization in Section 6. (See Figure A1 in the Appendix for a visual comparison.) Liberal attorneys are heavily overrepresented in “blue” states, such as New York, Illinois, and California, while lawyers in a some “red” states lean to the right. Nonetheless, we see that most of the patterns are consistent between the two models (with Model 2 controlling for partisan leanings within jurisdiction).

5 Ideology of Judges Compared to Attorneys

We now extend these findings to judges, addressing our key question of how attorney preferences map onto the ideological distribution of judges. The DIME scores for the various tiers of the judi-

	Model 1	Model 2
Female	-0.495*** (0.011)	-0.563*** (0.013)
Years since Admitted	0.039*** (0.002)	0.057*** (0.003)
Years since Admitted ²	-0.0004*** (0.00003)	-0.001*** (0.00003)
Government Lawyer	-0.675*** (0.025)	-0.569*** (0.031)
Corporate (in house counsel)	-0.134*** (0.013)	-0.142*** (0.013)
Big Law Firm (top 100)	0.042*** (0.009)	0.227*** (0.010)
Solo-practice	-0.038*** (0.004)	-0.059*** (0.004)
Law Professor	-0.386*** (0.015)	-0.353*** (0.017)
Partner	0.118*** (0.011)	0.239*** (0.012)
Prosecutor/District Attorney	-0.035** (0.016)	-0.125*** (0.018)
Public Defender	-0.565*** (0.027)	-0.649*** (0.030)
Top 14 Law School	-0.119*** (0.009)	0.034*** (0.010)
> 100 Ranked Law School	0.054*** (0.004)	0.004 (0.005)
CD Dem. Pres. Vote Share		-1.061*** (0.015)
Constant	-1.560*** (0.078)	-1.579*** (0.099)
ρ	0.728	0.944
Inverse Mills Ratio	0.738*** (0.047)	1.156*** (0.055)
R-squared	0.064	0.119
N	974419	970573

p < .01; p < .05; p < .1

Table 1: Second-stage Results: OLS, Contributor DIME score as outcome variable.

ciary (state lower courts, state high courts, federal district, and federal courts of appeals) are presented in Figure 4, along with the ideological distribution of attorneys. Each group of judges differs meaningfully from the overall distribution of lawyers, with all of the judicial distributions being

more conservative overall. This result is confirmed when we compare the ideological distribution of lawyers versus all judges (combined) using a non-parametric two-sample Kolmogorov-Smirnov test (K-S test), which yields a D statistic of 0.12 with a p -value of 0.00. We therefore reject the null hypothesis that both lawyers and judges are sampled from an identical distribution.

In addition, the overall distribution of judges varies meaningfully across courts. Indeed, the higher in the judicial hierarchy, the less the overall distribution resembles the distribution of attorneys. The most conservative courts (and thus the least representative of the overall distribution of lawyers) are the Federal Courts of Appeals, followed by the state high courts, the federal trial courts, and state trial courts. These differences are significant at conventional levels, confirmed via a series of K-S tests comparing the overall distribution of lawyers to the distribution of (1) state lower, where the null is rejected with a D statistic = 0.116 and p -value = 0.00, (2) state higher, D statistic = 0.187 and p -value = 0.0, (3) federal district, D statistic = 0.170 and p -value = 0.00, and (4) federal appeals courts, D statistic = 0.216 and p -value 0.00. If anything, the higher the level of the court, the more pronounced the difference in distribution. (Comparisons among the distributions also lead to rejections of the null hypothesis at the 1% level.) Thus, *the higher or more politically important the court, the more conservative it is, especially when compared to the overall population of attorneys*. To place these results in context, while the median attorney is in the vicinity of center-left politicians such as Andrew Cuomo or Bill Clinton, the median U.S. Court of Appeals judge approximates center-right politicians such as Chris Christie or Olympia Snowe.

Regression analysis provide further evidence of the conservative nature of higher courts, presented in Table 2. Here, as in tables above, the outcome variable is the individual's DIME score (with larger values corresponding to more conservative). The model includes indicator variables for several categories of judges, ranging from state trial courts to the federal appeals courts, along with covariates that control for merit based qualifications. The baseline model includes a single indicator variable for judges, along with indicators for administrative judges (Models 1 and 3). We then include indicators for the various levels of the hierarchy, starting with state lower courts, state supreme courts, federal district courts, and federal circuit courts (Models 2 and 4). In Models 1 and 3, we include the same exclusion restriction as before. In the other two, we instead include state fixed effects.

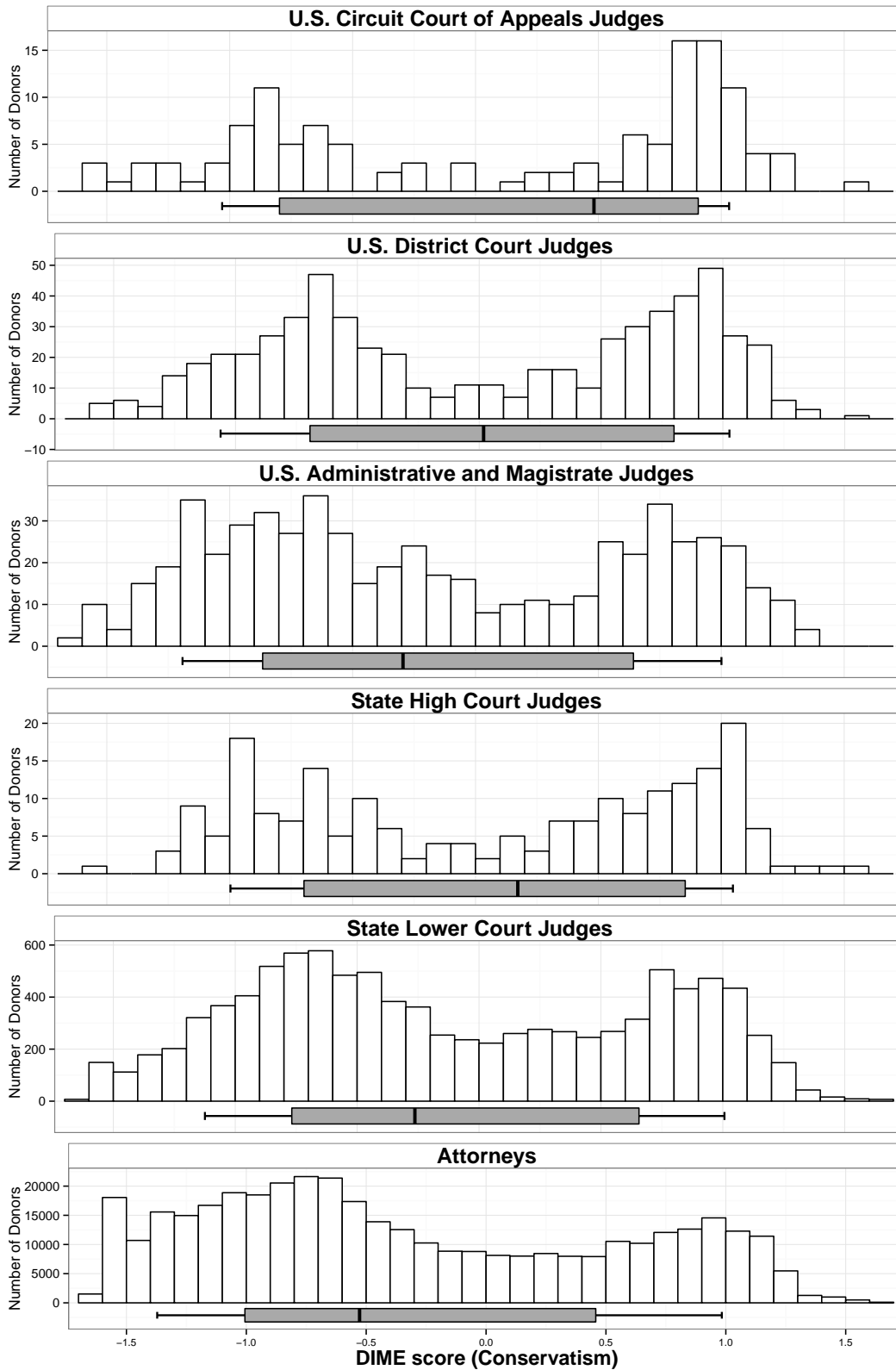


Figure 4: Ideal Point Distributions for Attorneys (bottom) and Judges. Box-and-whisker plots display the median, inter quartile range, and the 9th to 91st percentiles for each distribution. Note: Increased value of DIME score indicates a more conservative ideology.

	Model 1	Model 2	Model 3	Model 4
Judge	0.119*** (0.009)	0.187*** (0.011)		
Fed. CoA			0.413*** (0.082)	0.424*** (0.086)
Fed. District Courts			0.204*** (0.039)	0.299*** (0.041)
State High Courts			0.273*** (0.066)	0.196*** (0.069)
State Lower Courts			0.075*** (0.011)	0.145*** (0.012)
Fed. Mag.	-0.130*** (0.039)	0.137*** (0.042)	-0.010 (0.039)	0.329*** (0.044)
Fed. Admin. Judge	0.084 (0.094)	0.362*** (0.097)	0.085 (0.094)	0.365*** (0.097)
State Admin. Judge	-0.176*** (0.063)	0.115* (0.065)	-0.175*** (0.063)	0.117* (0.065)
Female	-0.443*** (0.009)	-0.134*** (0.016)	-0.440*** (0.009)	-0.128*** (0.016)
Years since Admitted	0.023*** (0.002)	-0.033*** (0.003)	0.023*** (0.002)	-0.034*** (0.003)
Years since Admitted ²	-0.0002*** (0.00002)	0.0005*** (0.00004)	-0.0002*** (0.00002)	0.0005*** (0.00004)
Top 14 Law School	-0.179*** (0.008)	-0.303*** (0.015)	-0.182*** (0.008)	-0.310*** (0.015)
> 100 Ranked Law School	0.072*** (0.004)	0.106*** (0.005)	0.073*** (0.004)	0.107*** (0.005)
Constant	-1.086*** (0.063)	0.611*** (0.107)	-1.072*** (0.063)	0.642*** (0.108)
State Fixed Effects		✓		✓
ρ	0.499	-0.758	0.491	-0.773
Inverse Mills Ratio	0.450*** (0.039)	-0.746*** (0.069)	0.440*** (0.039)	-0.769*** (0.069)
R-squared	0.060	0.156	0.060	0.156
N	974419	974419	974419	974419

p < .01; p < .05; p < .1

Table 2: Second-stage Results: OLS, Contributor DIME score as outcome variable. Models 2 and 4 include state fixed effects. See Appendix Section H for first-stage results.

The results confirm both hypotheses formulated in Section 2. First, they confirm that judges are more conservative than lawyers, with significant differences even after including state fixed effects.⁵ Second, the conservatism is increasing with the court's level. The higher the court, the

⁵ A possibility that we consider is whether judges are selected on the basis of characteristics that covary with partisanship—for example, age or gender. We consider these in Appendix Section E, finding no support for this contention.

more conservative the corresponding DIME score.⁶

6 Where and How Does Politicization Benefit Parties?

The results in Table 2 provide affirmative evidence in support of hypotheses 1 and 2. However, Table 2 does not explain if and how politicization varies across jurisdictions. The fact that lawyers appear to be unevenly distributed (with liberals concentrated in certain states, as shown in Figure A1), leaves open the possibility that politicians face very different incentives across jurisdictions due to variation in the ideological composition of the attorney pool.

Partisan Incentives to Politicize. To explore this, we turn to a cross-jurisdiction analysis. We begin by examining incentives for state parties to politicize, conditional on the distribution of attorneys from the DIME data. (Related questions of how judicial selection mechanisms may interact with incentives is considered in Section 7.) Here, our theoretical framework from Section 2 provides expectations regarding the incentives for politicization across jurisdictions. Recall that politicization, ω , is the degree to which judicial selection is driven by politics. High values of ω (close to 1) suggest a process driven entirely by politics, while low values (close to 0) is consistent with judges being chosen for reasons that are orthogonal to ideology. We compare different values of ω in terms of their effect on the overlap coefficient, which is the degree to which the composition of the judiciary would resemble (or not) the composition of Republican or Democratic party elites. We estimate the overlap coefficient using a non-parametric estimator proposed by Schmid and Schmidt (2006). This estimator has also been used by Hare et al. (2015) to measure partisan overlap in ideal points for survey respondents.

Figure 5 displays how the overlap coefficient by party (on the Y -axis) varies according to values of politicization ω (on the X -axis) by jurisdiction, conditional on the distribution of attorneys in that jurisdiction. Substantively, a positive relationship between the overlap coefficient and politi-

⁶ We are able to rule out the possibility that the conservative skew of the federal courts is driven by a disparity the number of judges appointed during Republican administrations. Among U.S. Court of Appeals judges included the sample, there are 74 are Democratic appointees and 76 are Republican appointees. Among federal district judges, 326 are Republicans appointees and 328 Democratic appointees.

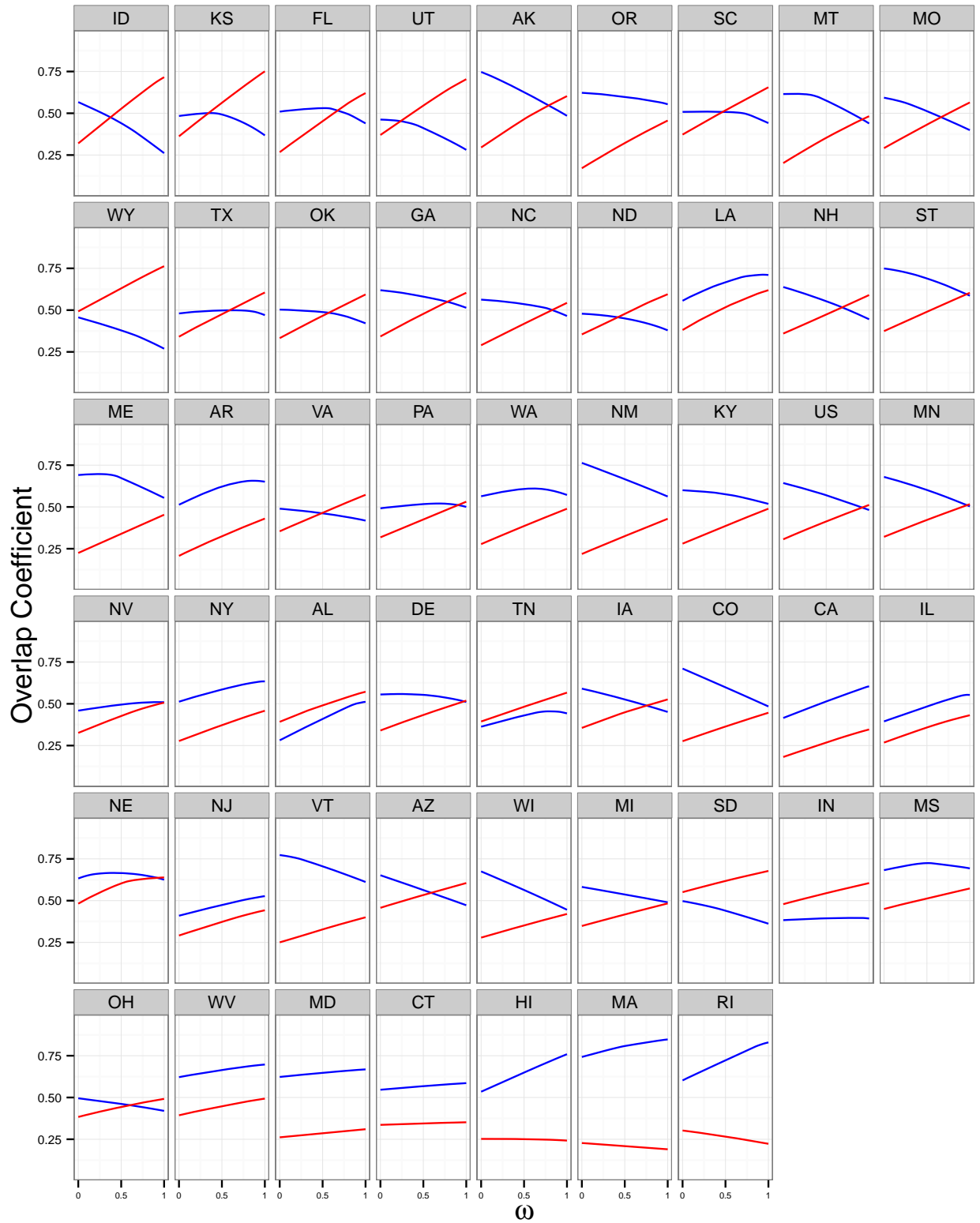


Figure 5: Predicted Overlap Coefficient for State Judges and Politicians by Party For Values of ω . The lines are color coded by party (Dem = Blue; Rep = Red). The panels are ordered by the predicted increase in the overlap coefficient for Republicans moving from $\omega = 0$ to $\omega = 1$. Federal courts (US) are indicated separately.

cization indicates that the party stands to benefit from increased politicization; a negative relationship suggests that politicization is disadvantageous to the party. Figure 5 reveals two general patterns. The first is that, conditional on the ideology of attorneys, Republicans stand to gain (often substantially) from increased politicization in nearly every state and also in the federal system. In only two strongly Democratic states, Massachusetts and Rhode Island, do Republicans stand to lose out from increased politicization. We note that Kansas and Florida, which rank second and third respectively in terms of Republican incentives, stand out as being recent hot-spots for conservative judicial reform efforts (e.g., [Simon, 2014](#); [Ward, 2011](#)).

The second relates to the differing incentives for Democrats. In many states the Republicans' gain would be the Democrats' loss, similar to what is observed at the federal level. In others, both parties would share in the gains from politicization. One state where this holds is Tennessee. This is notable because of the recent success of a 2014 ballot measure that sought to dismantle the state's judicial nominating commission in a move away from merit-selection. The legislatively-referred ballot measure enjoyed strong bipartisan support in the state legislature, with substantial cross-over by Democratic office-holders. This example fits well with our theoretical expectations. It also contrasts with clear partisan divisions to proposed ballot measures relating to judicial nominating commissions in Arizona and elsewhere.

Empirical Evidence of Politicization. Figure 5 serves to highlight the various ways in which the configuration of attorneys can shape the incentives of politicians. Given these incentives, how many jurisdictions actually exhibit evidence of politicization?

We test for politicization based on whether the ideology of judges is statistically distinguishable from attorneys practicing in the jurisdiction. With respect to the population of attorneys, we restrict the sample to attorneys who have been members of the bar for at least 5 years. The decision to restrict the sample reflects both eligibility conditions that require that attorneys to practice law in a state for a certain number of years before becoming a judges as well as the more practical consideration that it is almost unheard of for attorneys to become judges within the first five years of their careers. As before, we use two-sample K-S tests to test for distributional differences among the judges and attorneys in each jurisdiction. We then group jurisdictions into two categories: (1)

“Politicized,” or those with a statistically significant difference (p -value ≤ 0.05) and (2) “Non-Politicized,” or those where we cannot reject the null that judges are drawn randomly from the population of attorneys. In total, we reject the null in 28 states but fail to reject the null in the remaining 22 states.⁷

To place these results in context, Figure 6 plots the mean position for (1) attorneys, (2) judges, and (3) elected politicians for each state as well as for the federal courts (denoted by “US”).⁸ It reveals that while ideology of attorneys varies greatly across states, judges are for the most part *more conservative than are the state’s attorneys*, as evidenced by the number of politicized states. (This includes the federal courts as well.) We note that this is the case for four key states identified as having strong incentives to politicize (on the conservative side) from Figure 5: Florida, Missouri, Texas, and Georgia. We note also that, with the exceptions of Connecticut and Rhode Island, attorneys are, on average, more liberal than politicians, consistent with the assumptions made with respect to the theoretical predictions. Thus, we have strong evidence of politicization in a number of jurisdictions, with the politicization mostly working to Republicans’ advantage.

Surprisingly, the figure also reveals that, even among states that exhibit evidence of politicization, judges are generally closer to attorneys than to politicians. This suggests that most judiciaries are only partially politicized. There are two exceptions to this rule. The first is Virginia, the only state to select judges exclusively via legislative election. In fact, it is the only state where judges are statistically distinguishable from attorneys (D -statistic of 0.26 and a p -value of 0.00) but not from politicians (D -statistic of 0.11 and a p -value of 0.28). The other is the federal courts (U.S. District and U.S. Courts of Appeals). In federal courts, judges are significantly closer to federal political actors than they are to the underlying pool of national attorneys, consistent with heightened levels of politicization.

Also intriguing is the lack of evidence of politicization in roughly half of the states, including some states we identified as having an incentives to politicize in Figure 5. The failure to reject the null in some less-populous states such as Alaska, Idaho, North Dakota, South Dakota, and

⁷ The individual state-level results for these tests are included in the Appendix.

⁸ The mean positions for elected politicians aggregate all elected officials in the jurisdiction who served in office between 2004 and 2012.

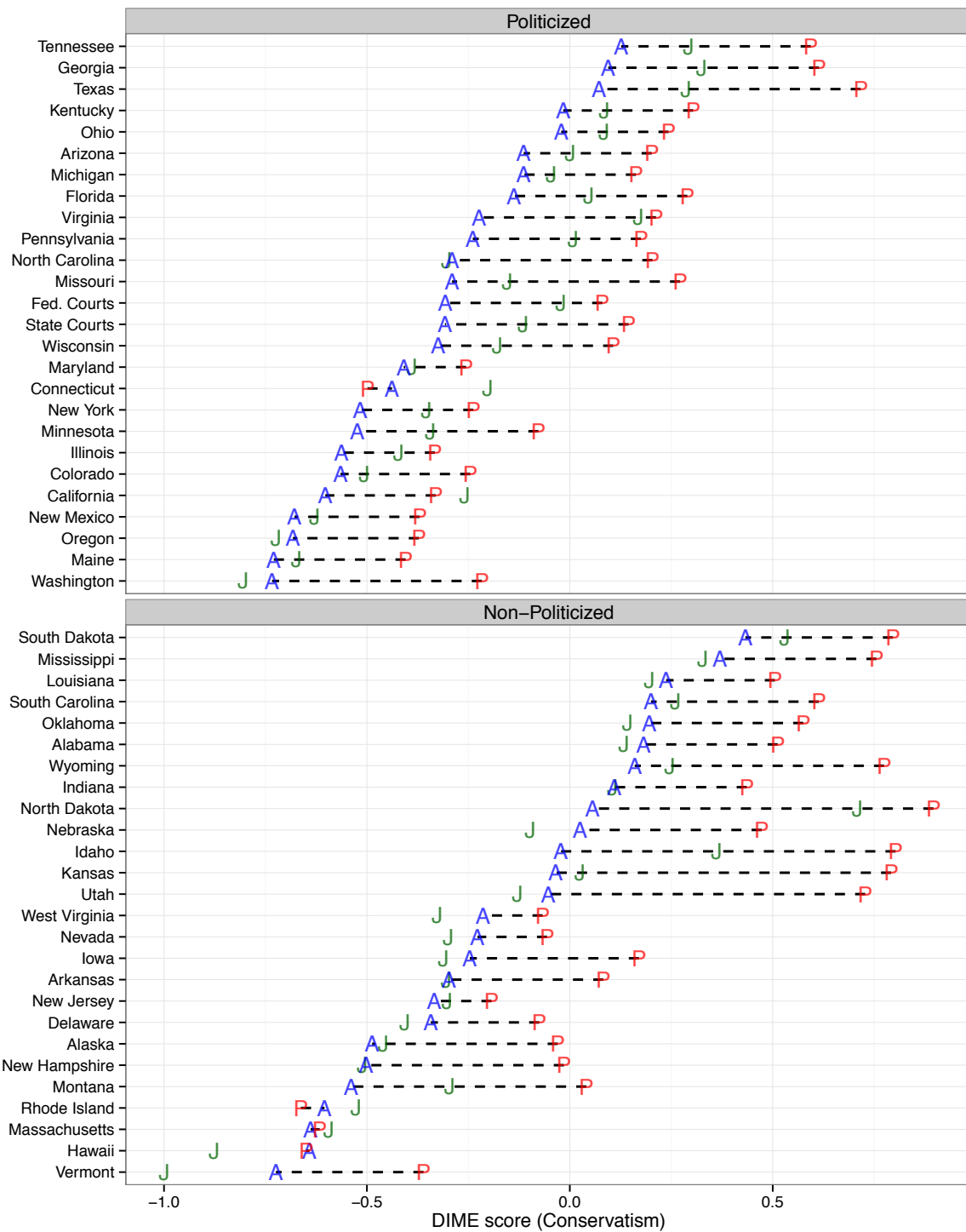


Figure 6: Comparison of average ideology of judges, politicians, and attorneys. Note: States are first grouped into two categories based on evidence of politicization. The first group includes states with statistically significant differences between judges and attorneys. The second group includes states where the K-S test was unable to reject the null. Within groups, states are ordered by the average attorney ideal point. Federal and state courts are indicated separately.

Wyoming may be due to small sample sizes. The remaining states appear to be genuinely indistinguishable from the populations of attorneys. For example, Republicans in Utah and Kansas have strong incentives to politicize the judiciary (Figure 5); however, judges in these states are, if anything, to the left of attorneys (although the differences are not significant). In the following section, we consider explanations for this, including the possible explanation of judicial selection methods.

7 Politicization And Judicial Selection Methods

The jurisdiction-by-jurisdiction analyses raise questions about how the rules and procedures for selecting judges which may facilitate (or present obstacles to) politicization. For example, partisan elections likely lead voters to weigh partisanship and ideology more so than in non-partisan elections, where such information is less readily available. Consistent with this, [Gordon and Huber \(2007\)](#) find that trial court judges who stand for reelection in partisan contests issue more punitive sentences than those facing merit retention, while [Canes-Wrone, Clark, and Kelly \(2014\)](#) find that judges elected under non-partisan elections are more responsive to public opinion on the death penalty than when elected under partisan elections. Contrariwise, there is some evidence that merit commissions, especially those dominated by members of the bar, limit governors' ability to make politically motivated appointments. [Fitzpatrick \(2009\)](#) finds evidence that merit commissions favor the selection of more Democratic judges in Missouri and Tennessee, but lacked measures needed to test the claims more broadly. Our analysis departs from earlier studies in two important ways. First, we incorporate of the potential pool of candidates into the analysis. Second, we note that past studies have been concerned primarily with the *re-selection* of sitting judges. Here, we are primarily concerned with the initial selection process.

Consistent with the literature, we group judicial selection methods them into four general categories: (1) gubernatorial/legislative appointment (*Appointed*), (2) merit selection systems that combine appointment with nominating commissions (*Merit*), (3) popular elections with party affiliation of judicial candidates listed on the ballot (*Partisan Elections*), and (4) popular elections without party affiliation listed the ballot (*Non-partisan Elections*). In order to obtain more granular data on judges' methods of initial selection, we link records from the MH directory with profiles

collected from Judgepedia (<http://ballotpedia.org/Judgepedia>), which provide detailed information on state and federal judges. This also allows for inclusion of states that employ combinations of different selection mechanisms in different courts—e.g., the state trial courts in Kansas in Missouri. Categorizing judges by judicial selection method is further complicated by interim replacements. Most states—including those with competitive judicial elections—use gubernatorial appointments to fill interim vacancies. Upwards of 30 percent of judges serving in elected seats in some states were initially appointed to fill interim vacancies.⁹ As such, we reestimate the model with interim replacements recoded by their initial method of selection. The results are reported in Model 2 of Table 3.

We model judicial ideology as a function selection methods interacted with the preferences of attorneys and politicians in the state, while controlling for individual-level characteristics:

$$J_{si} \sim (P_s + A_s) * (Appointed_{si} + Merit_{si} + Partisan\ Election_{si} + Nonpartisan\ Election_{si}) + X_{si} \quad (8)$$

where J_{si} is the ideal point of judge i in state s , P_s and A_s are the average ideal points for politicians and attorneys in that state, and X_{si} is a vector of individual-level controls for gender, age, and law school attended. Interacting selection methods with A_s and P_s captures how responsive judicial ideology is to attorneys and politicians in the state. Results are reported in Table 3.

Figure 7 visualizes how judicial ideology changes in response to lawyers and politicians. The X -axes here represent either lawyers' ideologies (top) or political actors' ideologies (bottom). Seeing movement across the Y -axis in judges' ideology would suggest that the selection mechanism aids in reflecting either lawyers' or political actors' ideologies. For example, consider gubernatorial/legislative appointments. The top plot shows that judicial ideology under such systems is unresponsive to changes in attorney ideology but is *highly* sensitive to changes in the ideology of political actors. The bottom left panel shows that, under gubernatorial/legislative selection, the more conservative political actors are, the more conservative judges become. This shows that gubernatorial/legislative appointment selection is associated with increased levels of politicization. The results are similar for partisan elections. Under this system, judicial ideology is insensitive to

⁹ Judgepedia allows us to identify judges' initial method of selection.

	Model 1	Model 2
Appointed	0.187 (0.128)	0.296*** (0.106)
Merit	0.392*** (0.092)	0.446*** (0.090)
Partisan Election	0.132 (0.093)	0.122 (0.094)
Non-Partisan Election	0.501*** (0.079)	0.468*** (0.082)
Avg. Lawyer×Partisan Election	0.044 (0.171)	0.066 (0.174)
Avg. Lawyer×Non-Partisan Election	1.152*** (0.107)	1.142*** (0.113)
Avg. Lawyer×Merit	1.108*** (0.173)	1.254*** (0.164)
Avg. Lawyer×Appointed	0.070 (0.353)	0.346 (0.241)
Avg. Politician×Partisan Election	0.627*** (0.117)	0.587*** (0.119)
Avg. Politician×Non-Partisan Election	-0.297*** (0.097)	-0.290*** (0.105)
Avg. Politician×Merit	-0.230** (0.107)	-0.246** (0.105)
Avg. Politician×Appointed	0.675*** (0.247)	0.559*** (0.180)
Years Since Admitted	-0.013*** (0.003)	-0.012*** (0.004)
Years Since Admitted ²	0.0001*** (0.00004)	0.0001*** (0.00004)
Female	-0.256*** (0.019)	-0.254*** (0.019)
Top 14 Law School	-0.127*** (0.027)	-0.131*** (0.027)
> 100 Ranked Law School	0.039** (0.016)	0.035** (0.017)
In-State Law School	0.033** (0.016)	0.033** (0.016)
R-squared	0.166	0.166
N	9678	9597

***p < .01; **p < .05; *p < .1

Table 3: Analysis of different judicial selection methods. Contributor DIME score are the outcome variable. Model 2 includes interim replacements recoded by their initial method of selection.

changes in the underlying attorney ideology but is highly sensitive to changes in the preferences of politicians.¹⁰

¹⁰ Simulated first differences associated with moving A_s from -0.5 to 0.5 are 0.8 [-0.60, 0.78] for *Appointed*, 1.1

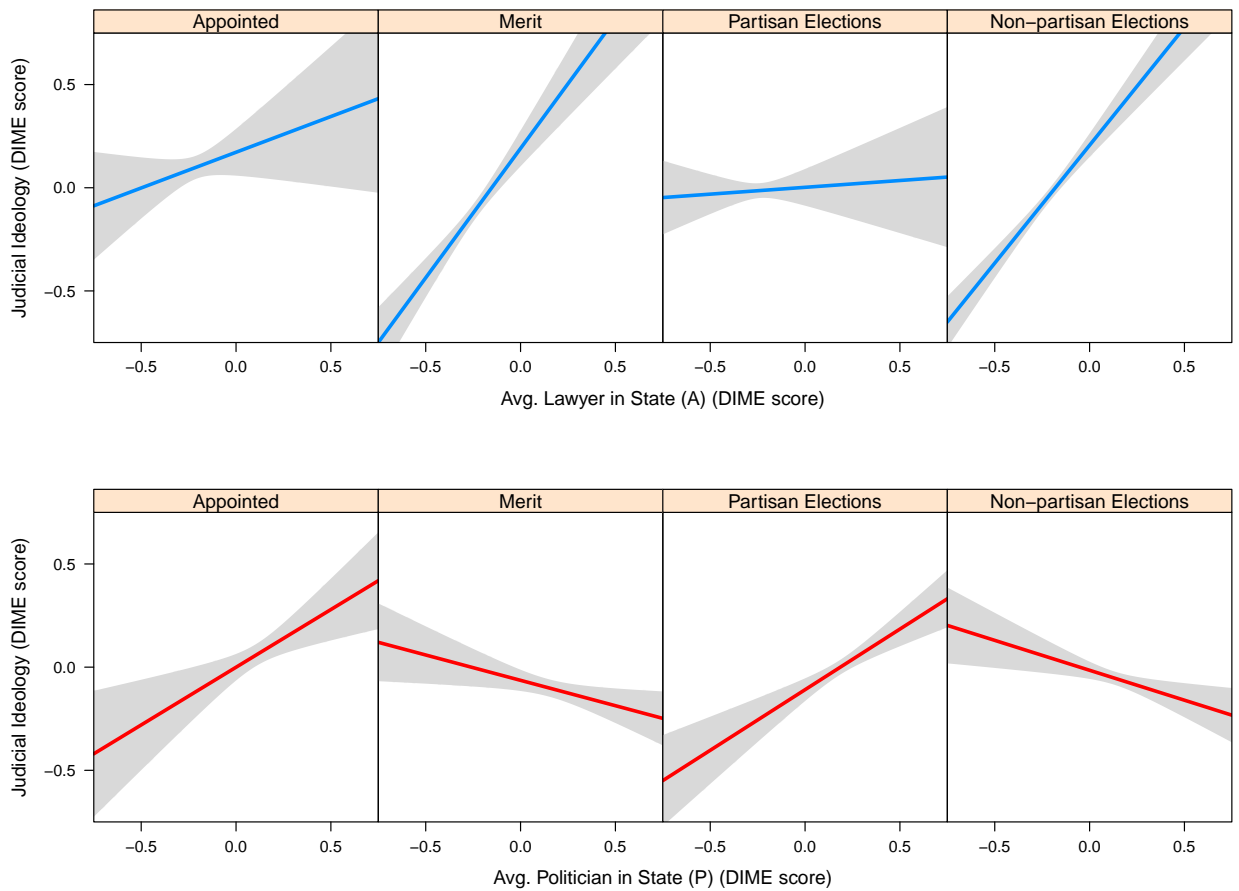


Figure 7: Predicted judicial ideology by (1) lawyers’ ideologies (top) and (2) politicians’ ideologies (bottom) by judicial selection mechanism.

The results for the two other judicial selection systems offer a stark contrast. Under merit selection the more conservative the underlying ideology of attorneys, the more conservative judges become; however, when it comes the ideology of politicians, the relationship is both weak and inverted. The same is true for selection systems that rely on non-partisan elections. Under this system, judicial ideal points covary closely with attorney ideology; however, they vary substantially less with political actors’ ideology, and the relationship is inverted.

In summary, the evidence strongly supports the claim that selection methods are central to understanding judicial politicization. Selection systems that utilize merit commissions and non-

[0.75, 1.42] for *Merit*, 0.05 [-0.29, 0.41] for *Partisan Elections*, and 1.13 [0.94, 1.34] for *Nonpartisan Elections*. Simulated first differences associated with moving P_s from -0.5 to 0.5 are 0.66 [0.18, 1.14] for *Appointed*, -0.22 [-0.43, -0.01] for *Merit*, 0.62 [0.39, 0.85] for *Partisan Elections*, and -0.28 [-0.48, -0.10] for *Nonpartisan Elections*.

partisan elections exhibit far lower levels of politicization, under our definition, than either gubernatorial or legislative systems or partisan elections. Among other things, this suggests that the decision to elect or appoint judges is far less consequential than the rules that govern either approach.

The importance of judicial selection methods in shaping the judicial is reflected in partisan politics. Conservative-leaning groups have routinely opposed merit commissions, which they contend give undue influence to the bar. On the other hand, state bar associations and left-leaning groups have generally advocated in favor of merit-based selection and opposed judicial reform efforts aimed at weakening judicial nomination commissions. However, this raises the point that support for merit selection is, given the distribution of attorney ideology, a much easier position for those on the left to take. Supposing the distribution of lawyers were reversed, so too might the parties' positions on judicial selection methods.

8 Strategic Politicization in Higher Courts

The analyses provide some explanation for the opposing stances the parties have taken regarding judicial selection. Partisan battles over judicial nominations have worked in the Republicans' favor by shifting federal courts to the right, as shown by Figure 6. On the other hand, there is evidence that the effects of politicization have not been felt uniformly throughout the judicial hierarchy, as shown by Figure 4.

One possible explanation for this is that qualified nominees are a scarce resource. Given that supply of attorneys on the right is more limited, the most qualified conservative judicial candidates might be strategically funneled to positions in the nation's higher courts (including federal courts) by political elites, informal institutions, and formal organizations. At these higher levels, decision making becomes more political—particularly regarding the interpretation of delicate questions involving constitutional law, political questions, and electoral redistricting (Sunstein et al., 2006). Thus, the relatively small number of conservatives in the overall legal population, coupled with the expectation that the function of lower courts is less political, makes it less likely that similarly concerted efforts will be made to adjust for imbalances in lower courts.

If conservatives are more concerned about populating higher courts with like minded jurists and if the pool of potential attorneys is overwhelmingly liberal, then supply of potential conservatives will be smaller relative to demand. One implication of this is that conservative elites may have to work harder to produce comparable numbers of qualified conservative candidates. Drawing and recruiting conservative candidates from the elite cadre of schools becomes, for conservatives, quite important given the small shares of conservatives at these schools. Perhaps the best example of this is the creation of the Federalist Society, the conservative-leaning intellectual organization that was founded in 1982 and has memberships at nearly 200 U.S. law schools.¹¹ The Federalist Society represents a coordinated strategy of retaining and fostering conservative talent at law schools, with an eye toward grooming members for seats on the federal courts.

In terms of our data, if conservative elites are actively seeking out and recruiting potential conservative candidates from a smaller pool (the Federalist Society model), then this should be empirically demonstrable in examining the population of lawyers conditional on education. That is *conditional on high pedigree, conservatives should be more likely to head toward the judiciary*. We provide support for this by modeling career outcomes as function of ideology for graduates of elite law schools. We further restrict the sample to graduates who are at least 15 years into their careers (as measured by the time since first being admitted to the bar). We estimate separate models for each of the four categories of judges, where the outcome variable is status as a judge for a given tier of the judiciary. Given that only a tiny fraction of lawyers become judges, we adopt a rare events logit specification [King and Zeng \(2001\)](#).

Figure 8 plots the predicted probability of serving on each type of court conditional on ideology. The politics of selecting judges appears to strongly favor conservatives. Conservative graduates of elite law schools are far more likely to be judges than their more liberal peers. This is particularly true for federal courts of appeals and state high courts. The predicted probability of serving on the the Federal Circuit Courts is nine times greater for a conservative with an ideal point of 1.5 than for a liberal with an ideal point of -1.5. The corresponding likelihoods for federal district judges and

¹¹ The Society was founded with the explicit aim of cultivating conservative students to develop policy prescriptions and networking opportunities, in order to challenge what Federalist Society saw as a “form of orthodox liberal ideology which advocates a centralized and uniform society.” (<https://www.fed-soc.org/aboutus/>).

	Fed. CoA	Fed. District	State High Court	State Lower Court
DIME score	0.722*** (0.157)	0.376*** (0.099)	0.573*** (0.200)	0.066 (0.049)
Years since Admitted	0.223*** (0.083)	0.067* (0.039)	0.295** (0.135)	0.138*** (0.020)
Years since Admitted ²	-0.003** (0.001)	-0.001 (0.0005)	-0.004** (0.002)	-0.001*** (0.0002)
Constant	-11.105*** (1.615)	-7.192*** (0.740)	-11.606*** (2.262)	-7.466*** (0.398)
Log Likelihood	-421.828	-971.701	-267.622	-3536.762
AIC	851.656	1951.403	543.245	7081.524
N	52988	52988	52988	52988

***p < .01; **p < .05; *p < .1

Table 4: Probability of Judgeship for Graduates of Top 14 Law Schools (≥ 15 Years since Bar Admission)

state high court judges are three times and nearly six times, respectively, greater for conservatives. In line with results presented above, conservative graduates of elite law schools not significantly more likely to serve as state lower court judges. The disparity further intensifies when sub-setting more narrowly on alumni of Harvard, Yale, and the University of Chicago, historically elite bastions which are home to the founding chapters of the Federalist Society. Here, conservatives are twelve times more likely than their liberals counterparts to serve on the Federal Circuit Courts and four-and-a-half times more likely be a federal district judge.

All this suggests that prestigious judgeships are made more attainable for conservatives as politicization increases. The advantage enjoyed by conservatives is especially pronounced for graduates of elite law schools. Expanding the sample to include all lawyers with at least 15 years of experience without regard to educational background still shows conservatives to be favored by the judicial selection process but to a much lesser extent, with conservatives slightly more than twice as likely than their liberal counterparts to be selected to serve on the federal bench. Moreover, sorting into career outcomes on the basis of political ideology cuts both ways. When it comes to other highly sought after positions in academia, the relationship is reversed. A liberal graduate of an elite law school with an ideal point of -1.5 is more than ten times as likely to be a law professor as a conservative with an ideal point of 1.5.

These findings are consistent with the theory we set forth at the beginning, which is that efforts

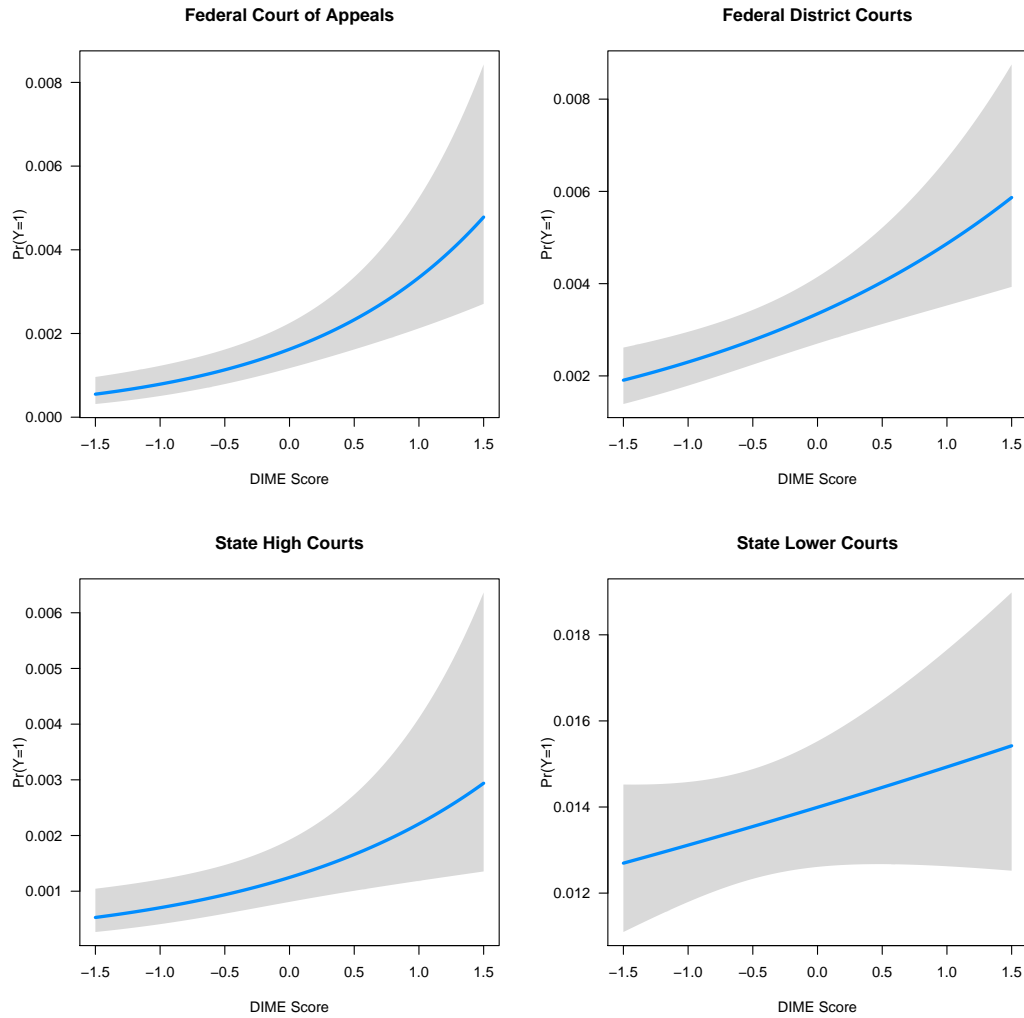


Figure 8: Predicted Probability of Judgeship by Ideology for Graduates of Top 14 Law Schools (≥ 15 Years since Bar Admission)

to politicize the judiciary are strategically directed toward the most politically important courts. Specifically, given the relatively fewer numbers of conservative attorneys (particularly at the top end of ranked law schools), conservatives can minimize costs and get more satisfaction by funneling those potential candidates toward more politically important judicial positions. This is more broadly consistent with a theory of strategic recruitment, one where pedigree interacts with ideology to introduce politicization at higher courts.

9 Concluding Remarks

In this paper, we present the most comprehensive data available today on the political preferences of the legal community. We used this data to make several contributions to our knowledge of the judicial politics. The first is that partisan efforts to shape the judiciary cannot be properly understood without accounting for the ideological preferences of attorneys. As we have shown, attorneys as a whole lean to the left of the ideological spectrum. Under a judicial selection method devoid of ideological considerations, our analysis shows that the judiciary will resemble the liberal-leaning population of lawyers, rather than resembling the more bimodal population of political actors. This poses a dilemma for those on the right seeking to push the courts in a more conservative direction.

Second, we have shown that the judiciary as a whole does not resemble this liberal population, instead leaning overall in a more conservative direction. Furthermore, we show that, on average, the higher the court, the more conservative and politicized it becomes and the more it deviates from the overall population of attorneys. This is particularly the case for the federal courts and state high courts, and also for courts that rely on executive or legislative selection. The most compelling explanation is rooted in strategic politicization, whereby political actors prioritize seating like-minded judges higher up in the judiciary. Indeed, a large-scale effort to balance the ideological composition of all state courts would likely be politically costly, hard-fought, and have no guarantee of success. This might lead political actors to prioritize placing like-minded candidates on higher courts (including federal courts), especially when the selection mechanism affords the opportunity to do so. As evidence of this, we have demonstrated that higher courts exhibit heightened levels of politicization and that conservative graduates of top law schools are much more likely to become judges.

Third, politicization is perhaps not as pervasive as some have feared, at least not when we compare across all 50 states. Although we see strong evidence of politicization in the federal courts and also in state high courts, many states exhibit little to no signs of politicization. We find that (1) the configuration of preferences of lawyers and politicians in a jurisdiction and (2) judicial selection methods are both critical to the process. Of course, it would be unwise to assume that the

institutions and rules for selecting judges are exogenous to political preferences and incentives. As the example of the Bush White House's refusal to rely on allegedly liberal ABA ratings illustrates, the battles over judicial selection (and its reform) being waged across the nation serve as a direct reminder that selection methods are endogenous to the preferences of politicians and voters. On the other hand, what we have shown in this paper generates predictions about who in a state is most likely to call for judicial reform, their motivations for doing so, and most importantly, the anticipated effects on the judiciary. As we demonstrate, even seemingly small changes to the ways in which judges are selected, such as transitioning from partisan to non-partisan elections or incorporating a judicial nomination commission into the appointment process, have the potential to completely reshape a state's judiciary in ways that are largely predictable given knowledge of the configuration of preferences of the state's politicians and attorneys.

We conclude with two additional thoughts regarding these data. First, we believe these data provide a valuable new resource for legal and judicial politics scholars. Several other empirical patterns are of interest in their own right, including the high percentage of lawyers donating to campaigns, variation in the ideology of lawyers and judges across states, ideological divisions within the profession based on career choice (e.g. prosecutors versus law professors), and the relationship between law school rank and ideology. Future researchers stand to benefit from the breath of these data. Second, although we have examined lawyers and judges using the same measures, we analyzed them separately. However, the judiciary functions primarily to rule on cases presented and argued *by lawyers*. We would therefore expect to see interactions between lawyer and judicial ideology, perhaps with more conservative judges being more likely to rule in favor of conservative lawyers (and the opposite being true for liberal judges). To date, these are questions that have been unexplored. The data that we present here enable these inquiries.

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Appendix A Linking Lawyers To Their Contribution Records

In order to link records between DIME and the Martindale-Hubbell Directory, we developed a customized probabilistic record-linkage algorithm.

The algorithm works as follows. First, it queries the DIME database for records that identify donors as attorneys by filtering on individuals who either (1) have a self-reported occupation that matched against a list of relevant search terms (e.g., lawyer, attorney, “atty,” judge, etc.), (2) have a self-reported employer that matched against a pre-compiled list of law firms or contained terms commonly used by the legal industries such as “law offices” or “LLP,”¹² or (3) list “Esq.” or “J.D.” as a title. The algorithm then cycles through each record in the Martindale-Hubbell directory searching for the set of potential matches in the DIME database. The algorithm narrows the set of possible matches by comparing values for first, last and middle name, suffix, title, address, city, state and zip codes, firm/employer, and geographic proximity. To adjust for slight variations in reporting, the algorithm fuzzy-matched on both names and addresses using the Jaro-Winkler algorithm. Name matching was further conditioned on information frequency of first and last names obtained from the Social Security Administration and the U.S. Census, respectively.¹³ We measured geographic proximity as the distance between geo-coordinates of the address in the Martindale-Hubbell database and the geo-coordinates of records from the DIME database. If a set of records assigned to a single ID in the DIME data exceeded the predefined threshold, it was identified as a match.

As we note above, there was significant variance in reporting across state bar associations and across individuals. Several of the fields therefore required additional processing and disambiguation. Specifically, we first standardized names and parsed into separate fields for first, last, middle, suffix, and title. Second, we standardized address strings (i.e., “street” becomes “st”). Third, we used automated disambiguation techniques to standardize entries for employer, law schools and

¹² In order to further narrow the search on attorneys, we screened out records with occupational titles commonly used by paralegals and staff at law firms.

¹³ Social Security Administration data on name frequency were accessed at <http://www.ssa.gov/OACT/babynames/limits.html>. Census data on the frequency of surnames were accessed at <https://www.census.gov/genealogy/www/data/2010surnames/dist.all.last>.

undergraduate institutions, and practice areas.¹⁴ For instance, the listings for law professors were derived from a partial list of law schools. As a result, most law professors employed at the missing universities were grouped into the catch-all employment categorization. We were able to extract the remaining law professors by searching the fields on employment and title for terms that could be used to identify them as law professors.

We used an automated coding procedure based on the gender ratios of first names based on census data or, when available, gender-specific titles (e.g., Mrs., Mr., Jr., Sr.) reported in either the contribution records. We do not assign labels to individuals for whom the automated coding scheme did not reach a threshold of being 95 percent confident of the person's gender. In total, we were able to assign gender to 98.6 percent of the sample. The gender coding scheme is identical to that used to identify gender in the DIME database of contribution records.¹⁵

In addition to the eight variables fields described in the text, a significant percentage of listings included even more information voluntarily provided by the attorney, such as (9) detailed employment history, (10) judicial clerkships along with the name of judge, (11) lists of prominent clients, and (12) prominent cases argued. Since lawyers choose to provide the information and others do not, some items are incomplete sources of information. When available, record-linkage algorithm referenced items (9) and (10) as a way to augment matching algorithm. However, we do not include any information from items (9) through (12) in the main analysis.

Appendix B Self-Selection into the Donor Population

A potential concern is selection bias due to some attorneys contributing (and therefore being included in DIME) but not others. However, attorneys are extremely active contributors, even compared to similar professions. In an exhaustive search of the contributor database, we identified 422,362 attorneys listed in the Martindale-Hubbell database, which corresponds to a participation

¹⁴ Information on practice areas was compiled from written descriptions and lacked structured categorizations. After applying standard techniques to clean and normalize the text, we grouped entries into a more general set of 31 categories.

¹⁵ When validated on the set records from the NPPES database of licensed medical doctors which provided information on gender, it successfully classified gender in 99.4% of cases.

rate of 43.3%, an order of magnitude greater than the participation rate among the voting age population (Bonica, 2014).^{16,17}

Regarding judges who are donors, a potential selection problem concerns regulations that prohibit federal and some state judges from making political contributions.¹⁸ Fortunately, a majority of judges were active donors prior to joining the bench. With regard to state high courts, of the 70 state justices first elected to office since 2001, 66 (or 94%) appear in DIME as campaign contributors. The pattern is more muted, but still apparent for federal judges. Nearly 65% of sitting U.S. Court of Appeals judges are found in the DIME database as contributors, with the share rising to 81% of those appointed since 2001.

Despite the high participation rates, self-selection into the donor population could still bias results. We attempt to correct for this using a Heckman selection model (Heckman, 1979). The first stage of the Heckman correction models the probability of selection into sample, while the second stage incorporates the transformed predicted probabilities from the first stage as additional covariates. Table A1 displays results from probit models that we use as the first stage of a Heckit model. (Second-stage results are presented in our results discussion, below.) Here, the outcome variable, donor status (i.e., an indicator of whether the individual appears in the DIME data), is regressed on variables that capture gender, age, geography, area of employment, career status, and some basic measures of quality of legal education.¹⁹ Model 2 further includes the Democratic vote

¹⁶ A fraction of these donors (6.5%) gave only to corporate or trade groups and thus were not assigned ideal point estimates.

¹⁷ We deliberately calibrated the algorithm to be less “greedy” in identifying matches so as to minimize false matches at the expense of reducing the overall linkage rate. Given the large sample size, this decision reflects our attempt to prioritize minimizing bias over increasing the sample size. In general, false matches are more likely to introduce bias than are missed matches. (Missed matches would be more or less random, whereas false matches would incorporate more people who could be confused with the population of interest.) As a result, the number of lawyers identified by the record-linkage algorithm represents a conservative estimate of the percentage of attorneys making contributions.

¹⁸ Federal judges currently on the bench are barred from making political contributions by the Code of Conduct for U.S. Judges, Canon 5. However, the code of conduct does not bar political activity earlier in their careers.

¹⁹ For legal education, we group together law schools that are in the top 14 (or “T14”). The composition of these has remained stable ever since rankings have been kept. For career status, we identify the largest law firms (a.k.a. “Big Law” firms) by tabulating the number of lawyers in the Martindale-Hubbell database listing each law firm as their employer. We define Big Law as the top 100 firms by number of employees as determined from the Martindale-

share in the last Presidential election for the individual's Congressional district, which captures how liberal (or conservative) the jurisdiction is.

Both models raise the possibility of selection bias: several of the variables are predictive of the propensity to donate. For example, those who are partners in law firms or those who graduated from top ("T14") law schools are *more* likely to make political contributions than are other kinds of attorneys. Women, government lawyers, prosecutors and public defenders, corporate (in-house) counsel, and those who attended law schools not ranked in the top 100 are *less* likely to contribute. Being located in more liberal Congressional districts is also associated with an increased propensity to donate, as seen in Model 2.

To aid with the identification of the Heckman correction model, we rely on an exclusion restriction assumption involving a single variable, the number of top state executive offices (attorney general, lieutenant governor, secretary of state, state treasurer, and auditor) that are elected in the individual's state.²⁰ The logic of using this variable is as follows. When selected via elections, races for these state executive offices are typically high-profile events fueled by intense fundraising efforts that often attract a sizable number of new donors. However, whether a state holds elections for executive office is an institutional feature typically determined closer to the state's founding and does not appear to be related with variation in contemporary partisan leanings across states. Whereas increased campaign activity is likely to slightly increase the probability that an individual donates, there is no obvious mechanism whereby holding competitive elections for state executives would bias latent ideological preferences of donors in the state.²¹

Hubbell data.

²⁰ Fifteen states have appointed secretaries of state (AK, DE, FL, HI, MD, ME, NH, NJ, NY, OK, PA, TN, TX, UT, VA), six states have appointed attorneys general (AK, HI, ME, NJ, TN, WY), 12 states have appointed treasurers (AK, GA, HI, MD, ME, MI, MN, MT, NH, NJ, TN, VA), 25 states have no elected auditors or comptrollers (AK, AZ, CA, CO, CT, FL, GA, HI, ID, IL, KS, LA, MD, ME, MI, NH, NJ, NV, OR, RI, SC, TN, TX, VA, WI), and seven states have no elected lieutenant governors (AZ, ME, NH, OR, TN, WV, WY).

²¹ The F -statistic for the number of elected executives is 553.9, which easily exceeds the F -statistic > 10 rule of thumb for exclusion restrictions. However, the number of elected executives only weakly correlates with donor status at $r=0.026$. On the other hand, it is all but unrelated with DIME scores at $r=0.006$.

	Model 1	Model 2
Female	−0.334*** (0.003)	−0.308*** (0.003)
Years since Admitted	0.003*** (0.0004)	0.001*** (0.0004)
Years since Admitted ²	0.00004*** (0.00001)	0.0001*** (0.00001)
Government Lawyer	−0.387*** (0.016)	−0.056*** (0.016)
Corporate (in house counsel)	0.019** (0.008)	0.060*** (0.008)
Big Law Firm (top 100)	−0.062*** (0.005)	0.092*** (0.005)
Solo-practice	−0.030*** (0.003)	−0.052*** (0.003)
Law Professor	−0.372*** (0.013)	−0.337*** (0.013)
Partner	−0.017*** (0.006)	0.038*** (0.006)
Prosecutor/District Attorney	0.078*** (0.013)	0.047*** (0.013)
Public Defender	−0.412*** (0.024)	−0.413*** (0.023)
Top 14 Law School	−0.247*** (0.004)	−0.150*** (0.004)
> 100 Ranked Law School	0.096*** (0.003)	0.066*** (0.003)
CD Dem. Pres. Vote Share		−1.286*** (0.008)
Constant	−0.345*** (0.006)	0.465*** (0.008)
N	395252	395144
R-squared	0.063	0.117
F Statistic	2050.391	3753.177

***p < .01; **p < .05; *p < .1

Table A1: First-stage Results: Probit regression, whether an individual contributes (is in DIME database) as outcome variable.

Appendix C Measure Validation

Comparison with candidate scores We were able to identify 2,876 attorneys in our data that had run for elected office and raised funds from enough donors to be assigned an independent DIME score as a candidate. Of this group, 149 also have DW-NOMINATE scores. The overall correlation between contributor and candidate DIME scores is $\rho = 0.93$. The within party correlations are $\rho = 0.83$ for Democrats and $\rho = 0.76$ for Republicans. The corresponding correlations with DW-NOMINATE scores are $\rho = 0.90$ overall, $\rho = 0.52$ for Democrats, and $\rho = 0.53$ for Republicans.

Comparison with Appointee-Based Measures In order to compare the DIME scores with existing measures of judicial preferences, we calculated scores for judges appointed to the federal bench between 1987 and 2012 using the methodology described in Giles et al (2001,2002)—the same methodology underlies the widely-used Judicial Common-Space Scores (Epstein et al). The scores are assigned based on the common-space DW-NOMINATE scores of those involved in the nomination process. If one or both home-state Senators are of the same party as the president, the nominee is assigned the NOMINATE score of the home-state Senator (or the average if both senators are from the President's party). If neither home-state Senator is a member of the President's party, the nominee is assigned the NOMINATE score of the President.

The overall correlation between the contributor DIME scores and the appointment based measures is $\rho = 0.67$ for Federal Circuit Court judges and $\rho = 0.58$ for Federal District Court judges. The weaker associations are to be expected. Indirect measures based on those involved in the appointment process tend to be less reliable measures of preferences as compared to more direct measures based on revealed preferences (see Bonica and Woodruff 2014). This is made apparent when examining the residuals between the two measures. The circuit court judges with the largest residuals were Helene White (DIME = -0.86 ; GH = 0.72) and Barrington Parker Jr. (DIME = -0.58 ; GH = 0.72) and William Byrd Traxler, Jr. (DIME = 1.14 ; GH = -0.45). In each case, the nominee had first been appointed to the district court by a president of one party before being elevated to the circuit courts by a president of the other party—the same is true for Justice

Sonia Sotomayor. Further examination of the judges' backgrounds and the circumstances of their nominations reveals to the DIME scores to be clear winners in terms of face-validity.

Appendix D Robustness of Measures to Strategic Giving

One concern with using campaign contributions as the underlying data source is that donors might give for strategic reasons, rather than due to genuine ideological leanings. Detailed discussion of the robustness of DIME scores to strategic giving can be found in [Bonica \(2014\)](#) for donors in general and [Bonica and Woodruff \(2014\)](#) specifically in the context of state judges. Borrowing from those papers, we note several points that address the concern of strategic giving here. First, the scores for individual donors and recipients have been shown to be robust to controlling for candidate characteristics related to theories of strategic giving, such as incumbency status. Second, there is a strong correspondence between contributor and recipient scores for candidates who have both fundraised and made donations to other candidates, indicating that independently estimated sets of ideal points reveal similar information about an individual's ideology. Third, the DIME scores are strongly correlated with vote-based measures of ideology such as DW-NOMINATE scores, providing strong evidence of their external validity. Lastly, estimated scores for candidates that have campaigned for judicial and non-judicial office are robust to changes in office type.

[Bonica \(2014\)](#) and [Bonica and Woodruff \(2014\)](#) further note that the estimation model does not strictly assume that ideological proximity is the sole determinant of contribution behavior, given that it allows for error. While the model "operates on the assumption that contribution decisions are spatially determined, strategic giving will only bias the candidate estimates if the resulting spatial errors violate normality assumptions" ([Bonica and Woodruff, 2014](#)). Indeed, most accounts of strategic behavior are actually largely compatible with ideological giving. That is, strategic incentives would serve largely to motivate contributors to engage in *more* funding activity but would not necessarily influence *which* candidates to support.

Excluding donations to judicial candidates Lastly, as our analysis focuses on donor DIME scores recovered for attorneys and judges who have personally contributed to other candidates and campaigns, we consider whether there are any specific reasons to expect lawyers and judges to

meaningfully differ from other types of donors. For example, it may be the case that lawyers face pressure to contribute to the campaigns of sitting judges. When we re-estimate the DIME scores for lawyers with contributions to judicial candidates excluded, however, the resulting scores correlate with the original scores at $\rho = 0.99$. Moreover, re-estimating the scores with all contributions to state elections excluded (i.e. federal contributions only) produces scores for lawyers that correlate with the original score at $\rho = 0.97$. As a result, it seems extremely unlikely that any analysis would be sensitive to these concerns.

Appendix E Consideration of Alternative Mechanisms

Other mechanisms could explain why judges might differ from the underlying population of attorneys. One important alternate explanation is that judges are selected on the basis of other characteristics that do vary according to ideology—that is, that judges are recruited or selected for reasons that appear to be apolitical but that vary according to political beliefs. Selection on these sorts of variables would have the effect of skewing the ideological distribution of judges (vis-a-vis attorneys), without necessarily implicating an ideologically based selection mechanism.

The most obvious example of such characteristics would be demographic. Ever since the Carter Administration started aggressively recruiting women and ethnic minorities (Clark, 2002), Presidents and other executives have tried to make the judiciary more reflective of the population as a whole. In addition, numerous studies have identified that women and minority judges vote in a more liberal direction on certain issues once they are appointed (Boyd, Epstein, and Martin, 2010; Cox and Miles, 2008). Making the judiciary more demographically representative could therefore have the effect of selecting also on ideology. We can, however, rule out this particular explanation: because women and minorities vote (if anything) in a more liberal direction, such a mechanism would mean that more liberals are selected vis-a-vis the population of attorneys. We see no evidence of this. To the contrary, the judiciary is *more conservative* than the overall potential pool of attorneys.

Another example is selecting judges on the basis of superior credentials. For example, conservatives being on average being more likely to attend highly rated law schools than liberals would

explain our results. Under such a scenario, the selection on quality of education would have the effect of introducing into the courts more conservatives, even if no ideological selection was in effect. In terms of evidence, the data are more mixed, but still point toward this being an unlikely explanation. As we see in Table 1 Model 1, those who attend elite law schools are more liberal than their counterparts. Comparisons with Model 2 reveal that this difference moves in the opposite direction when we control for geography. However, the magnitude in Model 2 is close to zero, despite its significance. In addition, as we show in Table 2, there are substantial differences across the selection of conservatives and liberals *even conditional on education*. Thus, education appears not to be the decisive factor here.

Within this category of explanations, we consider the most likely explanation to be that the pool of judges is simply older than the rest of the population. As we see in Table 2, those who are older tend to be more conservative. If judges are much older than lawyers, then this could plausibly explain why judges as a whole tend to be more conservative. We note, however, that the effect of age does not diminish the effect of the judge variable, suggesting that judges are more conservative even when conditioning on age.

Appendix F Distribution Comparisons of Judges with Politicians and Attorneys by State

	Attorneys		Politicians	
	KS P-value	Overlap Coef	KS P-value	Overlap Coef
US	0.00	0.83	0.00	0.85
AK	0.12	0.90	0.00	0.62
AL	0.00	0.82	0.00	0.46
AR	0.05	0.89	0.00	0.59
AZ	0.00	0.83	0.00	0.83
CA	0.00	0.68	0.00	0.75
CO	0.00	0.79	0.00	0.69
CT	0.00	0.79	0.00	0.68
DE	0.40	0.77	0.00	0.63
FL	0.00	0.87	0.00	0.60
GA	0.00	0.84	0.00	0.75
HI	0.07	0.80	0.02	0.72
IA	0.93	0.90	0.00	0.73
ID	0.19	0.77	0.00	0.65
IL	0.00	0.81	0.00	0.76
IN	0.46	0.90	0.00	0.74
KS	0.47	0.88	0.00	0.55
KY	0.00	0.90	0.00	0.80
LA	0.06	0.85	0.00	0.56
MA	0.19	0.89	0.46	0.86
MD	0.00	0.81	0.08	0.84
ME	0.00	0.78	0.01	0.54
MI	0.00	0.90	0.00	0.84
MN	0.01	0.80	0.05	0.83
MO	0.01	0.87	0.00	0.71
MS	0.46	0.82	0.00	0.68
MT	0.21	0.83	0.00	0.54
NC	0.02	0.85	0.00	0.63
ND	0.15	0.67	0.80	0.82
NE	0.56	0.86	0.00	0.50
NH	0.18	0.73	0.00	0.57
NJ	0.14	0.88	0.00	0.73
NM	0.00	0.77	0.00	0.67
NV	0.31	0.88	0.00	0.70
NY	0.00	0.82	0.00	0.81
OH	0.00	0.88	0.00	0.86
OK	0.04	0.89	0.00	0.62
OR	0.00	0.84	0.00	0.61
PA	0.00	0.86	0.00	0.82
RI	0.76	0.83	0.00	0.78
SC	0.37	0.90	0.00	0.68
SD	0.08	0.58	0.00	0.66
TN	0.01	0.83	0.00	0.76
TX	0.00	0.86	0.00	0.70
UT	0.90	0.85	0.00	0.56
VA	0.00	0.75	0.35	0.88
VT	0.13	0.73	0.01	0.48
WA	0.00	0.76	0.00	0.60
WI	0.00	0.74	0.00	0.59
WV	0.04	0.80	0.00	0.61
WY	0.70	0.88	0.06	0.72

Table A2: Comparing Attorney and Politician Distributions with Judges

Appendix G Attorney Ideology by State

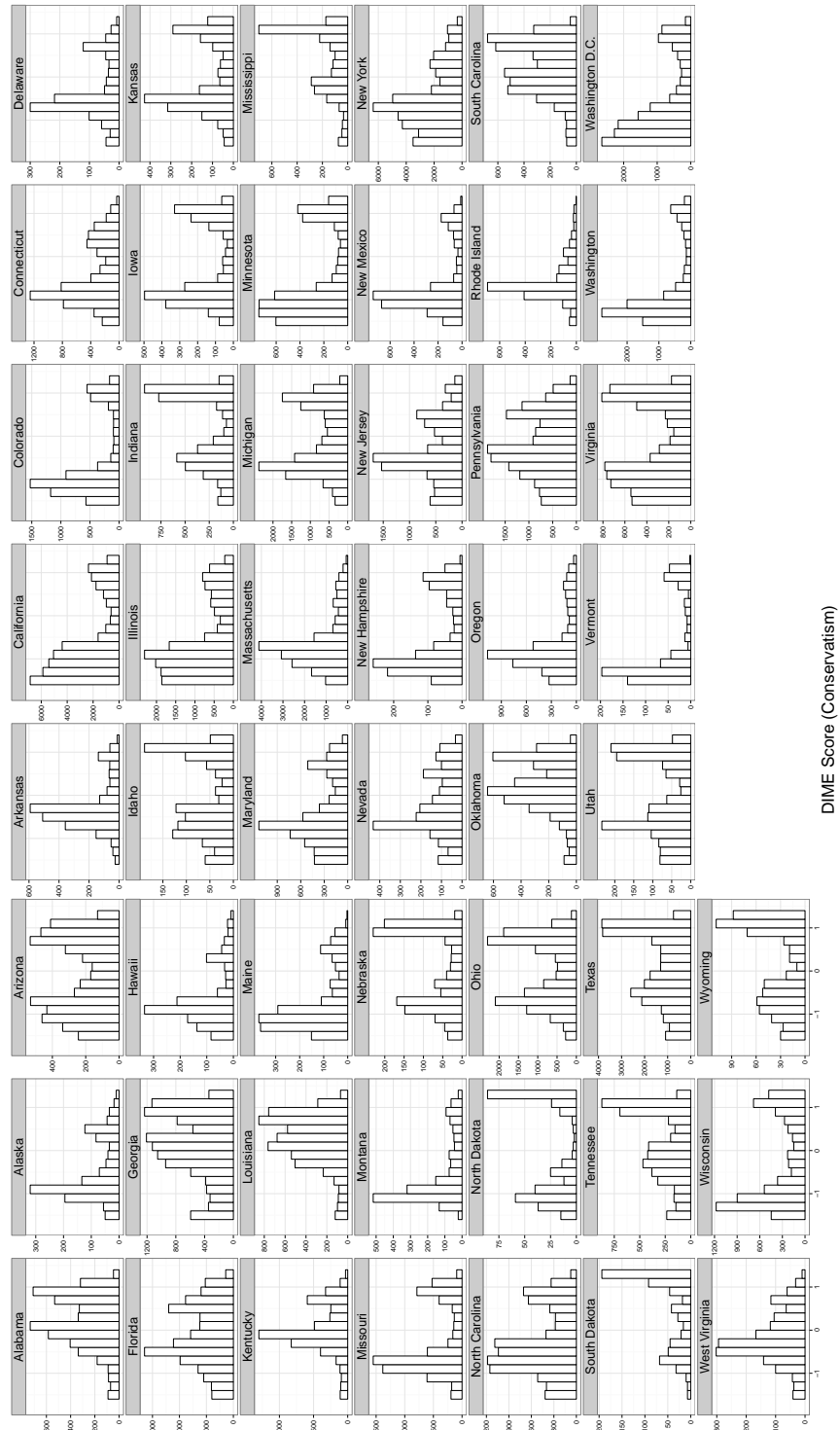


Figure A1: Distribution of estimated DIME scores for attorneys, by state. Increased value of ideal points indicates a more conservative ideology.

Appendix H First-stage Results From Heckman Model

	Model 1	Model 2	Model 3	Model 4
Judge	-0.134*** (0.008)	-0.142*** (0.009)		
Fed. Admin. Judge	-0.454*** (0.084)	-0.472*** (0.085)	-0.451*** (0.084)	-0.468*** (0.085)
State Admin. Judge	-0.334*** (0.057)	-0.342*** (0.057)	-0.332*** (0.057)	-0.339*** (0.057)
Fed. Mag.	-0.350*** (0.033)	-0.367*** (0.033)	-0.482*** (0.032)	-0.506*** (0.032)
State Lower Court			-0.095*** (0.011)	-0.085*** (0.011)
State Higher Court			0.038 (0.071)	0.023 (0.071)
Fed. District Court			-0.206*** (0.039)	-0.218*** (0.039)
Fed. CoA			-0.017 (0.088)	-0.028 (0.088)
Female	-0.336*** (0.003)	-0.340*** (0.003)	-0.337*** (0.003)	-0.340*** (0.003)
Years since Admitted	0.068*** (0.0003)	0.069*** (0.0003)	0.068*** (0.0003)	0.068*** (0.0003)
Years since Admitted ²	-0.001*** (0.00001)	-0.001*** (0.00001)	-0.001*** (0.00001)	-0.001*** (0.00001)
Top 14 Law School	0.323*** (0.004)	0.340*** (0.004)	0.324*** (0.004)	0.341*** (0.004)
> 100 Ranked Law School	-0.099*** (0.003)	-0.084*** (0.003)	-0.098*** (0.003)	-0.084*** (0.003)
Num Elected Execs	0.038*** (0.001)		0.038*** (0.001)	
Constant	-1.327*** (0.006)	-1.001*** (0.026)	-1.325*** (0.006)	-0.999*** (0.026)
Log Likelihood	-606942.700	-600758.900	-607014.500	-600850.500
Chi-square	102024.400***	114391.900***	101880.900***	114208.700***
N	974419	974419	974419	974419

*** p < .01; ** p < .05; * p < .1

Table A3: Probit regression, whether individual contributes (is in DIME database) as outcome variable.

Appendix I Modeling Judicial Ideology without Selection Bias Correction

	cfscore			
	Model 1	Model 2	Model 3	Model 4
Judge	0.155*** (0.008)	0.118*** (0.008)		
Fed. Admin. Judge	0.218** (0.090)	0.130 (0.086)	0.215** (0.090)	0.128 (0.086)
State Admin. Judge	-0.073 (0.060)	-0.054 (0.057)	-0.075 (0.060)	-0.055 (0.057)
Fed. Mag.			0.130*** (0.036)	0.067* (0.034)
State Lower Courts			0.100*** (0.010)	0.104*** (0.010)
State High Courts			0.261*** (0.063)	0.204*** (0.059)
Fed. District Courts			0.263*** (0.037)	0.193*** (0.035)
Fed. CoA			0.425*** (0.078)	0.408*** (0.074)
Female	-0.340*** (0.003)	-0.306*** (0.003)	-0.339*** (0.003)	-0.305*** (0.003)
Years since Admitted	0.002*** (0.0004)	0.003*** (0.0004)	0.002*** (0.0004)	0.003*** (0.0004)
Years since Admitted ²	0.0001*** (0.00001)	0.00004*** (0.00001)	0.0001*** (0.00001)	0.00004*** (0.00001)
Top 14 Law School	-0.266*** (0.004)	-0.147*** (0.004)	-0.267*** (0.004)	-0.148*** (0.004)
> 100 Ranked Law School	0.100*** (0.003)	0.065*** (0.003)	0.100*** (0.003)	0.065*** (0.003)
Constant	-0.354*** (0.006)	-0.514*** (0.023)	-0.356*** (0.006)	-0.516*** (0.023)
R-squared	0.060	0.156	0.059	0.156
N	395252	395252	395252	395252

***p < .01; **p < .05; *p < .1

Table A4: Model Results Without Selection Bias Correction: OLS, Contributor CFscore as outcome variable