The Politics of Selecting the Bench from the Bar: The Legal Profession and Partisan Incentives to Introduce Ideology Into Judicial Selection

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Abstract. Using a new dataset that captures the ideological positioning of nearly half a million U.S. judges and lawyers who have made campaign contributions, we present evidence showing how ideology affects the selection of U.S. judges across the state and federal judicial hierarchies. We document that the higher the court, the more it deviates ideologically from the overall population of attorneys, suggesting an even stronger role of ideology in judicial selection. We show similarly stronger findings in jurisdictions where judges are selected via political appointments or through partisan elections. Our findings therefore suggest that ideology is an important component of judicial selection primarily when (1) doing so leads to expected benefits to political parties, (2) when the jurisdiction's selection process affords them the opportunity to do so, and (3) when it concerns the most important courts. The study is the first to provide a direct ideological comparison across tiers of the judiciary and between judges and lawyers and 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, 2008; Bailey and Maltzman, 2011), recent years have seen U.S. courts determine state and national policy on some of the most politically charged controversies of the day, including 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 judicial selection. More recently, the administration of Donald Trump has followed the example set by the Bush Administration in declaring that the ABA would not be consulted in the selection of federal judges.

However, despite the possible role of politics in the selection of judges, our knowledge of how and why American courts develop ideologically leanings or become politicized is limited. Indeed, although important scholarship has looked at closely at ideology, particularly at the U.S. 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 ideologically-based judicial selection 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 that also takes into account 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 show, understanding how ideology comes to play a role in the selection of judges is of fundamental importance and provides the necessary context for the more well-studied relationship between ideology and 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 how ideology influences the selection of judges in the U.S. We gain traction on the question by starting with the important fact that all judges in the U.S. are drawn from the legal community—that is, attorneys. Our theory of *ideologically-based judicial selection* then posits that the ideological composition of the judiciary is a function of, among other things, two key inputs: (1) the ideological distribution of attorneys who serve as the pool from which judges are drawn and (2) 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 in the jurisdiction from which they are drawn. However, as ideology becomes an increasingly important consideration in judicial selection, the ideological profile of the courts will deviate from that of attorneys and start to look more like that of the relevant political actors.

We use this intuition to explore how, why, and to what extent political actors will draw on ideology in judicial selection across different jurisdictions. We do so by linking together two sources of data. The first is a dataset 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 (Bonica and Sen, 2016). 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. First, as an empirical matter, we show that lawyers are more liberal than the U.S. population, but that judges are as whole are more conservative than attorneys. This is particularly true for (1) judges who sit in higher, more politically im-

portant 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. Moreover, we find that some states show signs of politicization while others do not. We explain this by showing that, after controlling for attorney ideology, judicial ideology is highly sensitive to the preferences of politicians when judges are selected via gubernatorial appointment or partisan elections but insensitive to the preferences of politicians when they are selected via merit commissions or non-partisan elections. This in turn suggests that political actors (and voters) 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 strategic selection. Specifically, parties will move to increase the reliance of ideology in judicial selection courts (i.e., to politicize) when (1) there exist expected ideological benefits to their party, (2) when the jurisdiction's selection process affords them the opportunity to do so, and (3) when it concerns the most important courts.

2 The Role of Ideology in Judicial Selection

We start the inquiry with a broad question: to what extent, if at all, does ideology matter in the selection of judges? Many thinkers and lawyers' organizations have expressed the belief that, while Congress and other elected bodies should be political in nature, the judiciary is distinctive. For example, the ABA rates candidates to the federal bench not according to their ideology or likely rulings, but "strictly on professional qualifications: integrity, professional competence and judicial temperament" (American Bar Association, 2009). The claim that judges should be chosen on the basis of qualifications, as opposed to ideology of political beliefs, has also been made by numerous legal commentators and political actors (e.g., Carter, 1994).[1]

Despite the widely held view that judges should be selected on the basis of qualifications, studies have shown that ideology strongly predicts how judges decide cases. The literature here is long-standing, dating back to seminal work such as Pritchett (1948). More recent studies on federal courts show that ideology is strongly predictive of decision making on the U.S. Supreme Court

[1] In addition, judicial candidates themselves routinely refuse to answer questions pertaining to political or policy positions, which supports notion that selections should be on the basis of qualifications as opposed to ideology or political beliefs. This is a point that has been confirmed—and critiqued—by a number of legal scholars (e.g., Kagan, 1995; Post and Siegel, 2006).

(e.g., Segal and Spaeth, 2002), the U.S. Courts of Appeals (e.g., Sunstein et al., 2006; Epstein, Landes, and Posner, 2013), and the U.S. District Courts (e.g., Epstein, Landes, and Posner, 2013). At the state level, other studies have shown that ideology (measured in different ways) is predictive of how judges rule (e.g., Brace, Langer, and Hall, 2000).[2]

Given the widely accepted belief that judges can have a significant impact over policy implementation, and that ideology is an important component of judicial decision making, political actors—and their respective parties—have strong incentives to seat judges who share their preferences (Ferejohn, 2002; Epstein and Knight, 1998; Maltzman, Spriggs, and Wahlbeck, 2000). However, there are two complications that serve to constrain political actors from seating judges who reflect their preferences perfectly. The first is that judges are nearly all former lawyers. The practice is historical, dating back to the Anglo-American common law, and the United States has never deviated from this norm. 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 all nine Justices sitting on the U.S. Supreme Court. The result, some have argued, is that the judiciary has essentially evolved to reflect the interests of the legal profession (Barton, 2010). And the legal profession in turn, exercises influence over the composition of the judiciary across many jurisdictions by way of merit-oriented commissions (Fitzpatrick, 2009), bar association qualifications ratings (Stratmann and Garner, 2004; Sen, 2014), and judicial codes of conduct. Indeed, selecting the bench from a narrowly defined population, comprising just 0.4% of the voting age population, has broad implications for the politics of the judiciary that have yet to be fully explored.

The bar's influential role is further complicated by the fact that lawyers appear to have their own ideological leanings and policy priorities. For example, McGinnis, Schwartz, and Tisdell (2004) examine campaign contributions made by law professors at elite institutions, finding that they overwhelmingly tend to be made to extremely liberal political actors, a finding consistent

[2]This includes studies on the predictive value of ideology in the context of incumbent challenges (Bonneau and Hall, 2003); the constitutional protections for criminal defendants (Howard, Graves, and Flowers, 2006); connection between retention rules and the ideological direction of justices' votes (Savchak and Barghothi, 2007); the influence of attorney contributions on justices' voting patterns in Wisconsin and Georgia (Williams and Ditslear, 2007; Cann, 2007); courts' adoption of rules on expert testimony (Kritzer and Beckstrom, 2007). In sum, the political leanings of judges are highly important in determining the nature of judicial rulings.

with Bonica, Chilton, Rozema, and Sen (2017). More broadly, Bonica, Chilton, and Sen (2016) use the same data we do and find evidence that lawyers are more liberal than other similarly educated professions, although just how liberal varies across jurisdiction, educational background, and practice area. However, although several studies have looked at the leanings of lawyers, what these ideological leanings mean for the ideology of the judiciary has received far less attention (for important exceptions, see, Fitzpatrick, 2009; Barton, 2010).

The second constraint is that political actors do not have an unfettered ability to select the judges they want. Judicial selection in the U.S. is a mix of systems—some appointments based (such as the federal courts), others election based, and others reliant on merit commissions comprised of lawyers that make recommendations. Studies have shown that the way judges are selected influences the judges produced (for a good overview, see Choi, Gulati, and Posner, 2010). For example, one focus has been whether judges who are appointed are more "independent" than judges who are elected. Several studies have concluded that they are (Cann, 2007; Shepherd, 2009; La Porta et al., 2004), but one prominent study has found that they may not be (Choi, Gulati, and Posner, 2010). Looking at jurisdictions with retention elections, at least one study, Canes-Wrone, Clark, and Park (2010), has found that they lessen judicial independence.

Studies have also linked variation in formal judicial selection mechanisms with differences in quality, but these findings are mixed. Some studies have documented that elected judges are more productive than appointed judges (Choi, Gulati, and Posner, 2010), while others have found no relationship (Landes and Posner, 1980). In a long-term analysis, Berkowitz and Clay (2006) show that states settled initially by civil-law countries are more likely to have partisan elections, which results in lower-quality judges. Furthermore, in work examining public perceptions of judges, Gibson (2012) suggests that citizens have comparably strong feelings of legitimacy toward judges who are elected (and therefore must campaign) as toward judges who are appointed.[3]

Although no study has provided a systematic investigation, previous studies have also provided evidence that formal selection mechanisms influence the ultimate ideology of judges. These papers have mostly focused on specific policy issues. For example, Canes-Wrone, Clark, and Kelly

[3]For consideration of a number of other normatively important issues—for example, how engaged voters are in judicial elections or how susceptible elected judges are to special interests—see Bonneau and Hall (2009).

(2014) find that non-partisan elections engender justices to pander to high-salience issues such as death-penalty cases, while Gordon and Huber (2007) find that judges re-elected via partisan elections are more punitive on sentences than those facing retention via merit commissions. Helland and Tabarrok (2002) and Tabarrok and Helland (1999) find that damages are larger in states with elections versus appointments. Hanssen (1999) finds that there is less litigation in states with elections versus appointments, consistent with the arguments of increased independence in appointed jurisdictions. Perhaps most broadly, Choi, Gulati, and Posner (2010) do not find any clear differences in terms of overall performance or independence between elected versus appointed judges, but they do find that elected judges focus their efforts on productivity whereas appointed judges issue fewer but higher quality opinions. The authors interpret this as evidence that elected judges behave more like politicians while appointed judges behave more like professionals by seeking to enhance their reputation within the legal community. Taken together, these papers suggest that different formal selection processes not only create different incentives for judicial behavior but could also result in judges with different policy (or ideological) proclivities and professional interests.

Bringing the two threads together, we consider another, mostly unexplored issue, which is that different selection mechanisms afford the legal profession more (or less) input in judicial selection, therefore affording the bar some degree of ideological influence. This is particularly true in jurisdictions that rely on merit commissions. For example, as Fitzpatrick (2009, p. 679) notes, "merit systems transfer power to the bar through the composition of the commission that selects the nominees from which the governor must make the appointment." In these states, political actors are especially constrained with regards to the bar, which wields substantial discretion over the potential pool of nominees for a judicial position. Even so, with a few exceptions (most notably Fitzpatrick, 2009, which looks at two merit states, Tennessee and Missouri), no study has addressed both the ideology of the bar and the bar's ideological influence via the different formal selection systems.

3 A Framework for the Role of Ideology In Judicial Selection

In this section, we present our theoretical framework, which incorporates these two important constraints on the preferences of political actors. We characterize the incentives faced by politicians to

interject ideology into judicial selection as a function of (1) the ideology of the pertinent political actors and (2) the ideology of attorneys in that jurisdiction. We use the framework to generate several testable predictions about efforts to interject ideology into judicial selection and about the eventual ideological distribution of judges in a given jurisdiction. Moreover, formal judicial selection mechanisms are not exogenous to these forces; thus, we not only discuss how our theory may predict changes in judicial ideology across different selection mechanism (elections, appointments, etc), but also how our theory might predict attempts at judicial reform.

Ideology of Political Actors. We start with the proposition that political actors have ideological preferences that vary from jurisdiction to jurisdiction (Poole and Rosenthal, 1985). Given the political importance of the courts in furthering and upholding policy, we assume that political actors will want to seat judges who reflect these preferences (Ferejohn, 2002). Thus, political actors in Massachusetts (where the average politician is liberal) will prefer more liberal judges who are more likely to uphold liberal laws, while political actors in Kansas (where the average politician is conservative) will prefer more conservative judges who will strike down more liberal laws.

Ideology of Lawyers. As judges are drawn exclusively from the nation's pool of lawyers, the ideological distributions of lawyers also inform the eventual ideological distribution of judges. That is, political actors are constrained in choosing judges from the pool of people who currently are, or who formerly were, attorneys. Moreover, existing scholarship (McGinnis, Schwartz, and Tisdell, 2004; Bonica, Chilton, and Sen, 2016) suggests that lawyers as a group lean to the left even conditional on education, which in turn establishes a ideological mismatch between the bar and political actors in some jurisdictions.[4] For example, the average political actor in Kansas, who is likely to be conservative, may be frustrated by the fact that lawyers in Kansas are more left leaning, making it challenging to find suitable conservative candidates for judicial office. Such a situation would be one in which the average politician would be better off with an increased reliance on

[4]The studies on the bar's leftward ideological leanings examine the legal profession in contemporary periods. Lawyers in past eras were, however, more conservative. This was particularly true during the New Deal Era, during which the legal profession (both the bench and the bar) opposed Franklin Roosevelt's progressive agenda.

ideology in judicial selection. On the other hand, the average political actor in Massachusetts, who is likely to be liberal, will likely be satisfied with the fact that lawyers in Massachusetts are left leaning, since choosing from this pool more or less randomly would result in a judiciary that is ideologically compatible.[5]

3.1 How Ideology Can Factor Into Judicial Selection

How do these ideological interests of political actors and lawyers shape the resulting judiciary? To explain, we consider the role that ideology plays in how judges are selected.[6] (We address formal selection mechanisms—such as elections, appointments, merit commissions, etc., below.) One possibility, which we call *ideologically neutral (or random) selection*, refers to judges being selected on the basis of non-ideological factors. Indeed, if judges were somehow selected on a basis unrelated (or orthogonal) to ideology, or were randomly selected from the legal population, we would expect the judiciary to resemble the overall ideological distribution of lawyers in that jurisdiction. In other words, if judges were selected (elected, appointed, or some combination via formal selection mechanisms) for reasons uncorrelated to ideology, then the overall population of judges should tilt to the left, resembling the ideological leanings of lawyers.[7]

Note that this kind of ideologically neutral selection is distinct from selecting judges so as to achieve a judiciary that has partisan balance or is broadly representative of the electorate (e.g., one that is bimodal in its distribution, with modalities in the center-left and center-right, as characterizes the American electorate). For example, the selection process for several independent agencies, such as the Federal Election Commission, require that an equal number of seats be filled by Republicans and Democrats. This results in bipartisan outcomes that may be more nationally representative and more likely to engender greater public trust and perceptions of legitimacy. Even

[5] In a few other states, for example Connecticut (as we show later on), attorneys might be more ideologically moderate than politicians. Thus, the average political actor (who is more liberal than the average attorney) will want to use more ideological selection to pull the judiciary leftward. This would be an instance where interjecting ideology would make conservatives worse off, since the use of ideology would have the effect of making the judiciary more liberal (not more conservative).

[6] We focus primarily on ideology as opposed to partisanship; however, the two closely track one another in our data and more broadly in the American political landscape. See Supplemental Appendix Section O for a comparison between our measures and data on partisanship.

[7] In discussing our results, we also address a corollary of this, *ideologically neutral trait selection*, which is that judges might be selected on the basis of attributes that correlate with ideology, but not on the basis of ideology itself. As we discuss below, we find limited evidence of this.

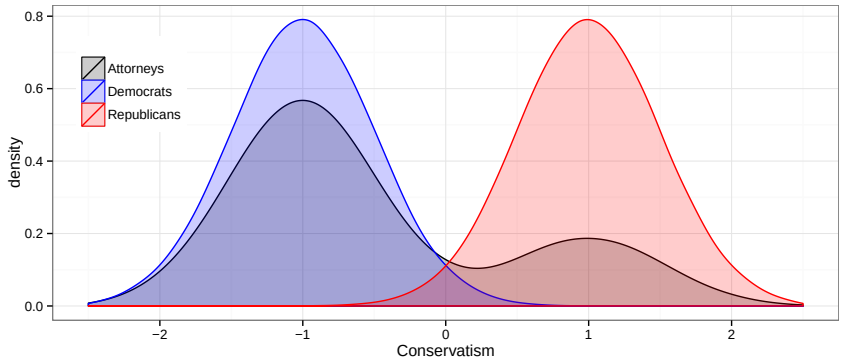

Figure 1: Hypothetical ideological distributions of the attorneys and partisan elites.

so, such balance is achieved by directly incorporating ideology (or partisanship) in the selection process. In other words, this kind of process—in which political actors have certain goals in mind in terms of ideological balance—necessarily involves selecting on the basis of ideology, distinguishing it from what we refer to here as "ideologically neutral selection."

Indeed, seeing that judges do not resemble the ideological distribution of lawyers would suggest a more likely possibility, which is that judges are subject to *ideologically-based judicial selection*. That is, ideology is an active consideration in evaluating which candidates are named to the judicial bench. The observable implication is that, if judges are selected on the basis of ideology, then the overall ideological distribution of judges will not resemble the overall leftward leaning distribution of lawyers. The distribution could more closely reassemble a bimodal distribution, with some judges being ideologically conservative and others liberal, or a unimodal distribution, with most judges being ideologically moderate. Both would suggest that ideology is somehow playing a role in judicial selection.

To see this these possibilities more crisply, consider a hypothetical configuration of preferences across (1) attorneys and (2) political parties, shown in Figure 1. The parties' ideologies follow a bimodal distribution, with Republicans on the right and Democrats on the left. In terms of the bar's preferences, we consider as a starting prior that lawyers are to the left of the general population (supported by existing studies such as McGinnis, Schwartz, and Tisdell, 2004; Bonica, Chilton, and Sen, 2016, and, as we later show, by our analyses). Under a scenario in which judges are selected for reasons unrelated to ideology, judges would be drawn roughly 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 extant liberal bent in the attorney pool serves to advantage Democrats and disadvantage Republicans. As we show below, this captures what we see across many jurisdictions.

This, in turn, is likely to shape the parties' incentives and strategies regarding judicial selection. To see this, we first assume that a party most prefers a judiciary with an ideological distribution identical to its own. Second, we assume that the degree to which ideology can be interjected into judicial selection can vary (as we discuss below). For purposes of explication, we represent the degree to which ideology can be interjected into judicial selection as ω. Under an ideologically neutral judicial selection system, $\omega = 0$, and judges will be sampled randomly from distribution of attorneys, resulting in the ideological distribution of judges mirroring the distribution of lawyers. Under the scenario of complete ideologically-based judicial selection, $\omega = 1$, the distribution of judges will mirror the distribution of the relevant political actors, while the scenario of $0 < \omega < 1$ would suggest some intermediate level of ideological selection.[8]

Figure 2 shows three representations of the distribution of judges at different levels of politicization ($\omega = \{0, 0.5, 1\}$), assuming the same configuration of politician and attorney ideologies as in Figure 1. As evidenced by the higher overlap at $\omega = 0$ between Democrats and judges, an ideologically neutral selection process yields better outcomes for Democrats than for Republicans. That is, Democrats are better off when ideology is kept entirely out of the judicial selection process and judges are sampled randomly (or for reasons orthogonal to ideology) from attorneys. Republicans, on the other hand, have incentives to interject ideology into the selection of judges: they do better with some degree of politicization ($\omega = 0.5$) but are best off with complete politicization ($\omega = 1$). In other words, Republicans are best off when they can select judges as much as possible on the basis of ideology.

As we show below, the observed distributions of lawyers and political actors roughly correspond to the stylized distributions in Figures 1 and 2.[9] This lays out the incentives for the intro-

[8] We take ω as distinct from the formal selection mechanism in place (e.g., elections, appointments) etc, although the nature of the formal selection mechanism informs the value that ω can take.

[9] As we later show, in a handful of states, the average attorney is to the left of the average Democratic politician, creating incentives for both parties to move toward ideologically-based judicial selection.

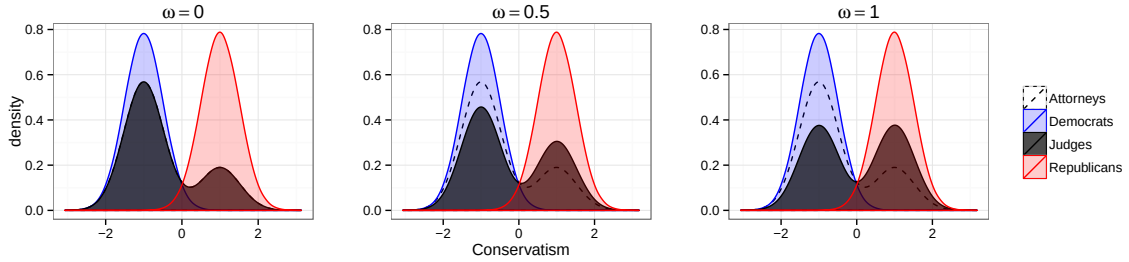

Figure 2: Distributions of judges at varying levels of ω.

duction of ideology in judicial selection. Specifically, insofar as attorneys are more liberal than politicians, efforts to move toward ideologically-based judicial selection will result in a rightward shift in the distribution of judges. In other words, with a liberal bar and comparatively more conservative politicians, increased reliance on ideology in judicial selection will result in a rightward shift in the judiciary. As the use of ideology in judicial selection becomes more pronounced, the distribution of judges will look less like the underlying population of attorneys and more like the population of politicians.

3.2 Existing Judicial Selection Mechanisms

As we noted above, jurisdictions in the U.S. employ a variety of formal judicial selection mechanisms, with some allotting more control to politicians. The federal system and some states rely on appointments, in which the executive names a candidate and then the candidate is confirmed by a legislative body. However, a large number of states rely on merit commissions, which tend to be composed of lawyers who then review judicial candidates and recommend a slate to the executive; the executive can then choose from the slate. Other states rely on elections for their judges, some of which are partisan while others are non-partisan.

We expect that these different judicial selection mechanisms will have different implications for Republicans and Democrats and that they will serve to differentially constrain the role of ideology in the selection of judges. Specifically, gubernatorial and legislative appointments systems—which place political actors front and center in the selection process—will afford the most opportunities to interject ideology into the selection of judges. On the other side of the spectrum, merit appointments, which rely on bipartisan or nonpartisan commissions composed of members of the state

or local bar (Fitzpatrick, 2009), remove political actors from the forefront of judicial selection, instead putting more power in the hands of the bar and legal profession. Likewise, non-partisan elections, which are not only devoid of ideological signals but also rely on electoral processes, also afford few opportunity for political actors to interject ideology into the selection of judges.

For this reason, the overall ideological landscape of the judiciary—and the degree to which ideology plays a role in the selection of judges—will vary not just according to the ideology of attorneys and of political actors (described above), but also in relation to the existing mechanisms of judicial selection. First, Republicans, who might stand to benefit from increased politicization (in most circumstances, assuming a left-leaning professional bar), would benefit from appointments and partisan elections systems; Democrats, who stand to lose from increased politicization, would (again, assuming a left-leaning bar) benefit from merit-oriented and non-partisan elections. This informs our analysis below, where examine how ideology shapes judiciaries across jurisdiction using appointments, elections, and merit-oriented systems.

These incentives also inform how the parties might be expected to approach or initiate attempts at judicial reform. Specifically, given a left-leaning bar, we would expect Republicans to agitate for selection systems that allow more ideological influence, including appointments and partisan elections; we would also expect Democrats to oppose these and to support merit-oriented criteria.

3.3 Supply Side Constraints and Strategic Ideologically-Based Judicial Selection

We have so far focused on how the ideological landscape of the bar and of political actors influences the demand for certain kinds of judges, but our framework also has implications for how Republicans and Democrats approach the supply of judicial candidates. Specifically, if the overall ideological distribution of lawyers skews leftward, then conservatives may have to place more effort on the selection and recruitment of (conservative) judges than their liberal counterparts. We refer to this as *strategically ideologically-based judicial selection* due to the fact that it incorporates and responds to relative ideological scarcity in judicial candidates.

These considerations lead to two observable implications that we explore in our analyses below. The first consequence is that, if there is indeed a smaller pool of right-leaning lawyers from

which conservative elites can draw potential judicial candidates, then we would expect that these conservative efforts would be strategically directed toward courts higher in the judicial hierarchy—where ideology matters most for decision making (Sunstein et al., 2006). Note that this implies that the effects of ideologically-based judicial selection will be felt first and foremost by the upper tiers of the judiciary and extend down the judicial hierarchy only as resources allow. That is, *the distributional shifts will be greatest at the higher courts and diminish moving down the judicial hierarchy*.[10]

The second consequence is that, conditional on pedigree and quality, conservatives should be more likely to become judges, especially among graduates of the most prestigious law schools. In other words, ideologically-based judicial selection improves the prospects of joining the bench for attorneys in areas along the ideological spectrum that are underpopulated relative to politicians—that is, on the conservative end of the spectrum. This suggests that ideologically-based judicial selection could translate into a career advantage for attorneys with political views underrepresented among members of the bar who aspire to judicial careers.

4 Lawyers and Campaign Contributions Data

We conduct our empirical analysis using two sources of data: (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. (Additional validation checks can be found in Bonica and Sen (2016) and in Supplemental Appendices C, D, and O.)

4.1 Database on Ideology, Money in Politics, and Elections

Our first step was to collect data on ideologies of lawyers and judges, which is necessary to address the theoretical questions above. For this we turn to DIME, which includes ideological scores

[10]Both the overall theory of ideologically-based judicial selection accommodates the fact that higher court judges may be drawn from the lower courts, rather than from the pool of attorneys overall (and that the sample space of potential candidates is conditioned accordingly). Below, we present evidence showing that, for example, federal appeals judges differ ideologically not just attorneys overall, but also from district judges, suggesting strong evidence that ideologically-based strategic selection holds regardless of how the pool of potential candidates is conditioned.

(also known as "common-space CFscores") for all individuals and organizations making campaign contributions to state and federal candidates from 1979–2014.

The primary advantage of DIME is that it provides consistently estimated ideological scores for politicians, lawyers, and judges, all of which are necessary for our analysis. Indeed, good ideological measures for the U.S. Supreme Court justices exist, and these includes measures that account for pre-confirmation information (Segal and Cover, 1989) and ideological shifts across time (e.g., Martin and Quinn, 2002). However, measuring judicial ideology has been challenging at the lower or state court level, owing to the fact that judges from various jurisdictions rarely sit together, which in turn makes relative measurements difficult. Instead, estimates of lower-court ideology have most often involved looking at the identity of the appointing President, or, in instances where Senatorial courtesy applies, the ideology of the senior home-state Senator or some combination of the two Senators (e.g., Boyd, 2011; Epstein et al., 2007; Giles, Hettinger, and Peppers, 2001). Within the state-courts literature, the most widely cited measure has been Brace, Langer, and Hall's Party-Adjusted Justice Ideology (PAJID) scores, a measure imputed from the state elite and citizen ideological scores developed by Berry et al. (1998). Thus, even though ideological measures for federal and state judges exist, these are not consistently measured; moreover, no ideological measures exist that capture the ideologies of individual lawyers.

DIME, which leverages federally reported campaigns contributions, provides the necessary data. These data leverage the fact that a person contributing to a liberal/conservative candidate is more likely to be liberal/conservative herself. The final CFscores are ideological estimates for individual donors placed in a common space with other candidates and organizations spanning state and federal politics. These scores range continuously from +2 (most conservative) to -2 (most liberal) and are normalized with respect to the weighted mean and standard deviation of recipient scores weighted by total amounts raised. Thus, for the purposes of interpreting the scale, a one-unit change on the scale is roughly equivalent to a standard deviation in recipient scores. The technical details behind the construction of the scores are provided in Bonica (2014). To provide a simplified account of how the scores are estimated for lawyers, a lawyer who contributes equal amounts to Bernie Sanders (D-ME, DIME score of -1.58) and Barack Obama (D-IL, DIME score of -1.28) would be assigned as score of -1.43. Meanwhile, a lawyer who contributes equal

amounts to Max Baucus (D-MT, DIME score of -0.33) and Joe Manchin (D-WV, DIME score of -0.02) would be assigned a score of -0.08. An advantage of this approach is that is differentiates between more moderate and more extreme members of the same party.[11] (In our example, even though both lawyers donated exclusively to Democrats, their respective scores take into account the ideology of the candidates they support.) We provide illustrations of these data below when we discuss which of these contributors are judges and lawyers.[12]

Robustness of DIME data. The DIME scores have been shown to be a valid measure of judicial ideology for state supreme court justices (Bonica and Woodruff, 2015). With regard to lawyers, there are no extant ideological measures for the legal profession against which we could validate. In Appendix Section O, we cross-validate the lawyers' DIME scores against party ID data in voter registrations using one state that provides this data, Florida. We were able to match 47,601 lawyers in our dataset to their records in the Florida voter file, 21,359 of whom have corresponding DIME scores. The results confirm that the DIME scores are a reliable indicator of partisanship for attorneys.

However, there are two additional 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. For example, regarding lawyers, in Appendix Section B, we present evidence that law firm partners and graduates of top law schools are more likely to be in the DIME data, and women, government lawyers, and graduates of law schools outside of the top 100 less so. 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 J, finding results that are substantively identical to the ones we present here.

Another concern stems from speculation that lawyers might give for strategic reasons, lead-

[11] As we show in Supplemental Appendix H, most lawyers and judges donate exclusively to one party.

[12] Additional illustrations of these data include studies on Supreme Court law clerks (Bonica, Chilton, Goldin, Rozema, and Sen, 2017*a*), appeals court law clerks (Bonica, Chilton, Goldin, Rozema, and Sen, 2017*c*,*b*), and law professors (Bonica, Chilton, Rozema, and Sen, 2017).

ing 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; Bonica, 2014) and by surveying donors about their contribution decisions (Barber, 2016). 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 Sections C and D. We find no evidence that lawyers behave differently than other donors. We also report results in Appendix Section H showing that most lawyers and judges give exclusively to one party.[13]

4.2 Martindale-Hubbell Lawyers' Directory

Our next task is to identify individual lawyers and judges in the DIME data. To identify individual lawyers, 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). 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. Although historical data are available, the database used here represents a snapshot of the population of active legal professionals as of 2012. In total, the Martindale-Hubbell directory contains entries for 974,448 individuals. This includes 890,039 attorneys in private practice, 42,510 serving

[13]The substantial within-party variation observed in Figure 4 largely reflects partisans giving to moderate versus extreme members of their party. Partisanship does not crowd out ideological considerations in contribution patterns in the same way it can for roll call voting. Donors must still must decide which of the thousands of candidates and organizations from their party to support. And often they must decide between candidates that are competing against each other in the primaries.

	Proportion Donors (in DIME)	Mean CFscore	Median CFscore	Num. Obs
All Lawyers	0.433	-0.311	-0.520	974,448
Female	0.313	-0.612	-0.844	305,811
Male	0.492	-0.229	-0.410	680,696
State Lower Court Judge	0.486	-0.159	-0.314	13,498
State High Court Judge	0.675	0.067	0.172	345
Fed. District Court Judge	0.527	0.010	0.006	1,193
Fed Circuit Court Judge	0.628	0.110	0.467	218
Employed by Government	0.312	-0.563	-0.839	44,550
In-House	0.340	-0.379	-0.640	42,548
Private Practice	0.439	-0.301	-0.508	915,688
Law Professor	0.515	-0.828	-1.091	5,444
Partner	0.670	-0.375	-0.612	37,560
Big Law	0.515	-0.475	-0.721	66,232
Prosecutor	0.337	-0.317	-0.540	18,886
Public Defender	0.286	-0.767	-0.979	4,855
Top 14 Law School	0.565	-0.551	-0.790	119,748
Top 15-100 Law School	0.428	-0.301	-0.506	518,240
>100 Ranked Law School	0.396	-0.205	-0.359	336,460
Years since Admittance (<10)	0.203	-0.537	-0.804	166,191
Years since Admittance (11-20)	0.352	-0.372	-0.606	244,202
Years since Admittance (21-30)	0.483	-0.320	-0.531	230,549
Years since Admittance (31-40)	0.575	-0.301	-0.505	206,065
Years since Admittance (>40)	0.572	-0.144	-0.299	127,557

Table 1: Summary Statistics

as in-house counsel at corporations and other private institutions, 10,527 government attorneys, 25,929 judges, and 5,444 law professors.[14]

In order to link records between DIME and the Martindale-Hubbell Directory, we developed a customized probabilistic record-linkage algorithm. (See Section A in the Appendix for details.) In total, we linked 422,362 attorneys in the Martindale-Hubbell database to their contribution records, corresponding to a coverage rate of 43.3 percent, about ten times higher than the overall national rate (Bonica, Chilton, and Sen, 2016). Summary statistics are provided by Table 1, with state-by-state data presented in Appendix Section G.

[14]Despite Martindale-Hubbell being relatively comprehensive, a small but unknown fraction of lawyers appear to be missing from the directory. We discuss missingness in Martindale-Hubbell in more depth in Section A of the Appendix.

5 Ideology of Attorneys

Figure 3 displays the distribution of DIME scores for the nation's attorneys along with the estimated ideal points of several political figures. It shows that attorneys are by and large to the left of other mainstream political actors; substantively, the median attorney is ideologically proximate to political actors such as Democrats Andrew Cuomo or Bill Clinton. Additional descriptive information is provided by Table 2, in which ideology is the outcome variable. (This Table presents results from model corrected for selection bias, as described in Appendix Section B. Uncorrected estimates are presented in Appendix Section J; the results are substantively similar.)[15] Throughout all of the analyses, a negative coefficient indicates increased liberalism, while a positive coefficient indicates increased conservatism. Model 2 controls for district-level two-party presidential vote shares in the 2008 elections to account for geographic variation in preferences.

As Table 2 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. Lawyer ideology meaningfully varies by geography, an important point for our discussion of ideologically-based judicial selection in Section 7. (See Figure A1 in the Appendix for a visual comparison of attorney ideology by state.) Model 2 includes the Democratic share of two-party vote in the 2012 presidential election by congressional

[15]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. The logic 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. 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). See Supplemental Appendix B for additional details.

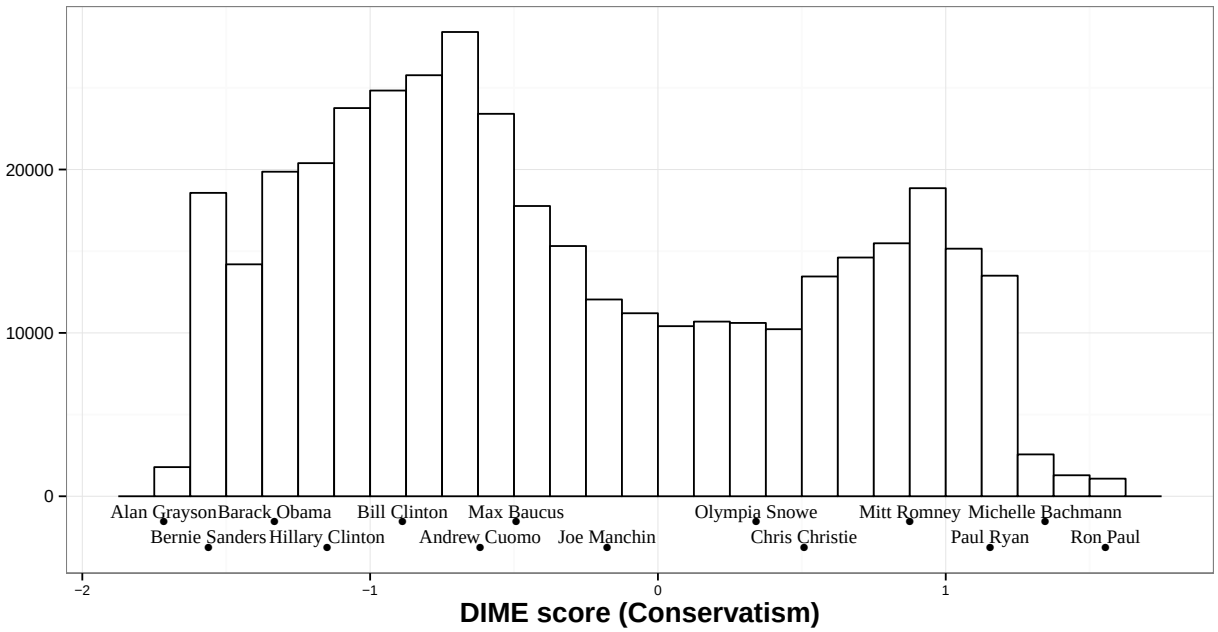

Figure 3: Ideal Point Distributions for Attorneys and Other Political Actors. Note: Increased value of DIME score indicates a more conservative ideology.

district to capture the partisan leanings of voters. We see that, like the rest of the population, attorneys tend to live in areas that share their politics. But even after accounting for geographic effects the patterns are largely consistent between the two models.

6 Ideology of Judges Compared to Attorneys

We now address our key question of how attorney preferences compare to the ideological distribution of judges. The DIME scores for the various tiers of the judiciary (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.[16] We therefore reject the null hypothesis that both lawyers and judges are sampled from an identical underlying distribution.

[16]The K-S test has the advantage of making no assumptions about the underlying data distribution, as opposed to the t-test, which assumes normality. Repeating these comparisons using t-tests yielded similar substantive conclusions.

	Model 1	**Model 2**
Female	−0.447*	−0.524*
	(0.009)	(0.011)
Years since Admitted	0.031*	0.053*
	(0.002)	(0.002)
Years since Admitted^2	−0.0003*	−0.001*
	(0.00003)	(0.00003)
Government Lawyer	−0.295*	−0.307*
	(0.012)	(0.014)
Corporate (in house counsel)	−0.074*	−0.089*
	(0.011)	(0.012)
Big Law Firm (top 100)	0.140*	0.324*
	(0.008)	(0.009)
Solo-practice	−0.014*	−0.032*
	(0.003)	(0.004)
Law Professor	−0.348*	−0.307*
	(0.014)	(0.016)
Partner	0.034*	0.161*
	(0.009)	(0.010)
Prosecutor/District Attorney	0.090*	0.001
	(0.014)	(0.015)
Public Defender	−0.240*	−0.319*
	(0.026)	(0.028)
Top 14 Law School	−0.172*	−0.003
	(0.008)	(0.009)
$>$ 100 Ranked Law School	0.071*	0.019*
	(0.004)	(0.004)
Dem. Presidential Vote Share (Congressional District)		−1.160*
		(0.012)
Constant	−1.294*	−1.372*
	(0.069)	(0.085)
N	395,237	395,128
R-squared	0.064	0.122
ρ	0.590	0.899
Inverse Mills Ratio	0.551*	1.033*
	(0.041)	(0.048)
F-statistic	770.8	566.9

* $p < .01$

Table 2: Second-stage Results: OLS, Contributor DIME score as outcome variable.

Note: A small percentage of observations could not be mapped onto a congressional district and thus are dropped from Model 2. The F-statistic valules are for the exclusion restriction from the first-state selection model. See Appendix Section B for more details.

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 federal appeals courts, followed by the state high courts, the federal district 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 high, 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 for different tiers of the judicial hierarchy also lead to rejections of the null hypothesis at the 0.01 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.

Table 3 provides further evidence of the conservative nature of the higher courts. Here, as in the tables above, the outcome variable is the individual's DIME score. The model includes indicator variables for several categories of judges, ranging from state trial courts to the federal circuit courts, along with covariates associated with merit-based qualifications. The baseline model includes a single indicator variable for judges, along with indicators for administrative judges. We then include indicators for the various levels of the judicial hierarchy, starting with state lower courts, state high 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.

The results confirm both hypotheses formulated in Section 3. First, they confirm that judges are more conservative than lawyers, with significant differences even after including state fixed effects.[17] Second, the conservatism is increasing with the court's level. The higher the court, the more conservative the corresponding DIME score.[18] Moreover, the conservative skew of the fed-

[17] 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.

[18] In the Appendix we report results from the same model specifications as Table 3 but with lawyers who had been admitted to the bar within the last 15 years excluded. We also report in the Appendix results with the outcome variable dichotomized by liberals (DIME score < 0) and conservatives (DIME score > 0).

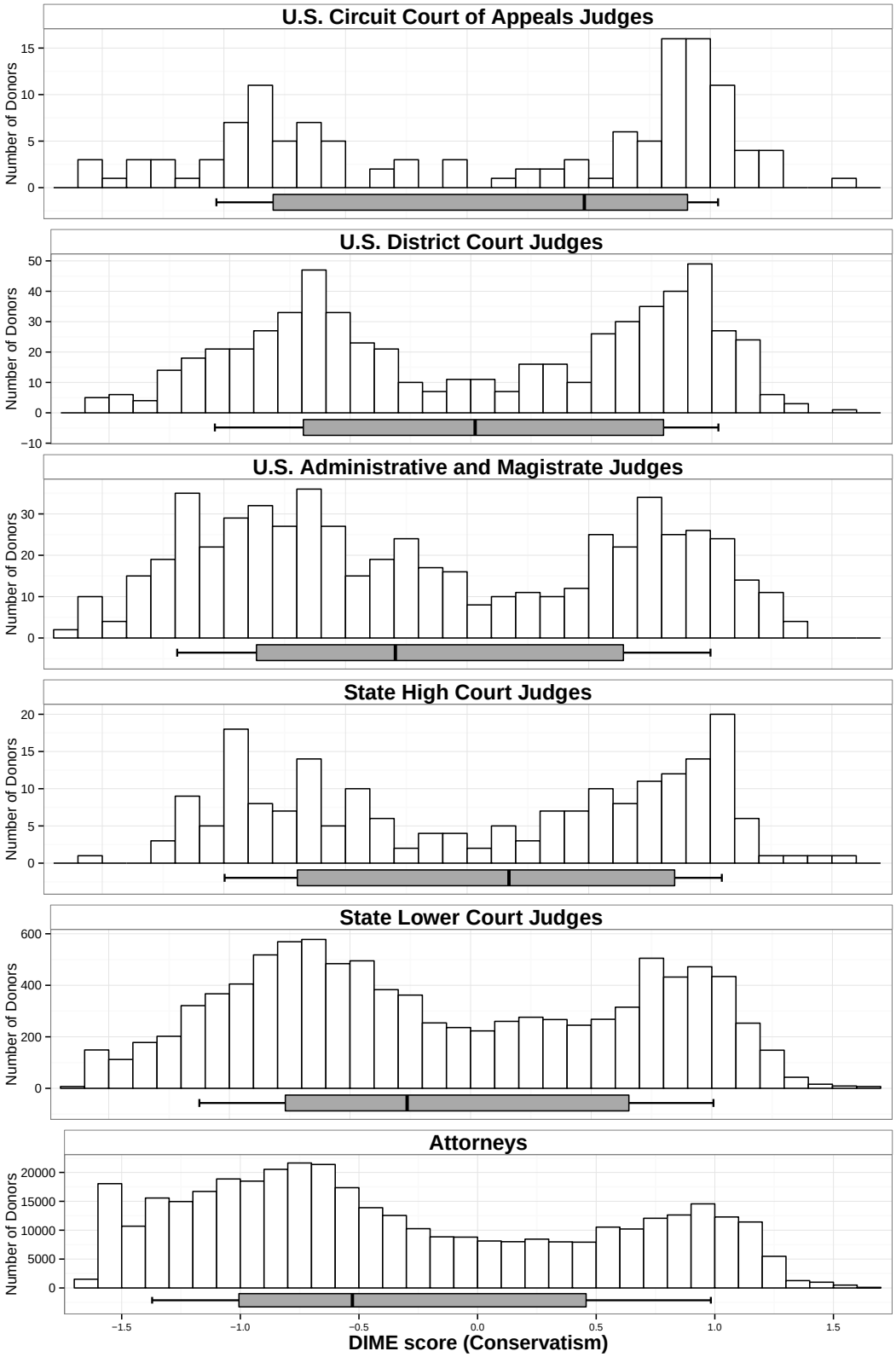

Figure 4: Ideal Point Distributions for Attorneys (bottom) and Judges. Box-and-whisker plots display the median, inter quartile range, and the 9th to 91st percentiles for each distribution. Note: Increased value of DIME score indicates a more conservative ideology.

	Model 1	**Model 2**	**Model 3**	**Model 4**
Judge	0.119*	0.187*		
	(0.009)	(0.011)		
Fed. CoA			0.387*	0.385*
			(0.080)	(0.084)
Fed. District Court			0.208*	0.284*
			(0.039)	(0.041)
State High Court			0.269*	0.193*
			(0.066)	(0.069)
State Lower Court			0.075*	0.145*
			(0.011)	(0.012)
Fed. Mag.	−0.130*	0.137*	−0.010	0.329*
	(0.039)	(0.042)	(0.039)	(0.044)
Fed. Admin. Judge	0.084	0.362*	0.085	0.365*
	(0.094)	(0.097)	(0.094)	(0.097)
State Admin. Judge	−0.176*	0.115*	−0.175*	0.117*
	(0.063)	(0.065)	(0.063)	(0.065)
Female	−0.443*	−0.134*	−0.440*	−0.128*
	(0.009)	(0.016)	(0.009)	(0.016)
Years since Admitted	0.023*	−0.033*	0.023*	−0.034*
	(0.002)	(0.003)	(0.002)	(0.003)
Years since Admitted^2	−0.0002*	0.0005*	−0.0002*	0.0005*
	(0.00002)	(0.00004)	(0.00002)	(0.00004)
Top 14 Law School	−0.179*	−0.303*	−0.182*	−0.310*
	(0.008)	(0.015)	(0.008)	(0.015)
$>$ 100 Ranked Law School	0.072*	0.106*	0.073*	0.107*
	(0.004)	(0.005)	(0.004)	(0.005)
Constant	−1.086*	0.611*	−1.072*	0.642*
	(0.063)	(0.107)	(0.063)	(0.108)
State Fixed Effects		✓		✓
ρ	0.499	−0.758	0.491	−0.773
Inverse Mills Ratio	0.450*	−0.746*	0.440*	−0.769*
	(0.039)	(0.069)	(0.039)	(0.069)
F-statistic	705.5		1092.1	
R-squared	0.060	0.156	0.060	0.156
N	974,419	974,419	974,419	974,419

* $p < .01$

Table 3: Second-stage Results: OLS, Contributor DIME score as outcome variable.

Note: The F-statistic valules are for the exclusion restriction from the first-state selection model. The values in both models far exceed the the F-statistic > 10 rule of thumb test for weak instruments. See Appendix Section B for more details.

eral courts is not simply the result of a disproportionate number of judges in our sample having been appointed during Republican administrations. Among U.S. Court of Appeals judges included the sample, there are 74 Democratic appointees and 76 Republican appointees. Among U.S. District Court judges, 326 are Republican appointees and 328 are Democratic appointees.

7 Where and How Does Ideologically-Based Judicial Selection Benefit Parties?

The results in Table 3 provide affirmative evidence of ideologically-based selection. However, Table 3 does not explain if and how ideologically-based judicial selection varies across jurisdictions. The fact that lawyers appear to be unevenly distributed with respect to geography (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 Move Toward Ideologically-Based Judicial Selection. To explore this, we turn to a cross-jurisdiction analysis. We begin by examining incentives for state parties to move toward ideologically-based judicial selection (and away from merit oriented or nonpartisan systems), conditional on the distribution of attorneys from the DIME data. (We consider related questions of how judicial selection mechanisms may interact with incentives in Section 8.) Here, our theoretical framework from Section 3 provides expectations regarding the incentives for introducing ideology into judicial selection across jurisdictions. Recall that we represent the degree of ideologically-based judicial selection as ω. High values of ω (close to 1) suggest a selection process whereby parties are selecting judges who reflect their ideologies, while low values (close to 0) are consistent with judges being chosen for reasons 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 and Democratic officeholders from the same state. Note that the ideology of politicians elected in a state proxies for the preferences of the electorate; thus, these analyses also function to roughly compare the judiciary to voters.

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.[19] Figure 5 displays how the overlap coefficient by party

[19]Given two densities, $f(.)$ and $g(.)$, the overlap coefficient is calculated as the ratio of the shared area between them such that, $\Delta(f,g) = \int min\{f(x),g(x)\}\,dx$.

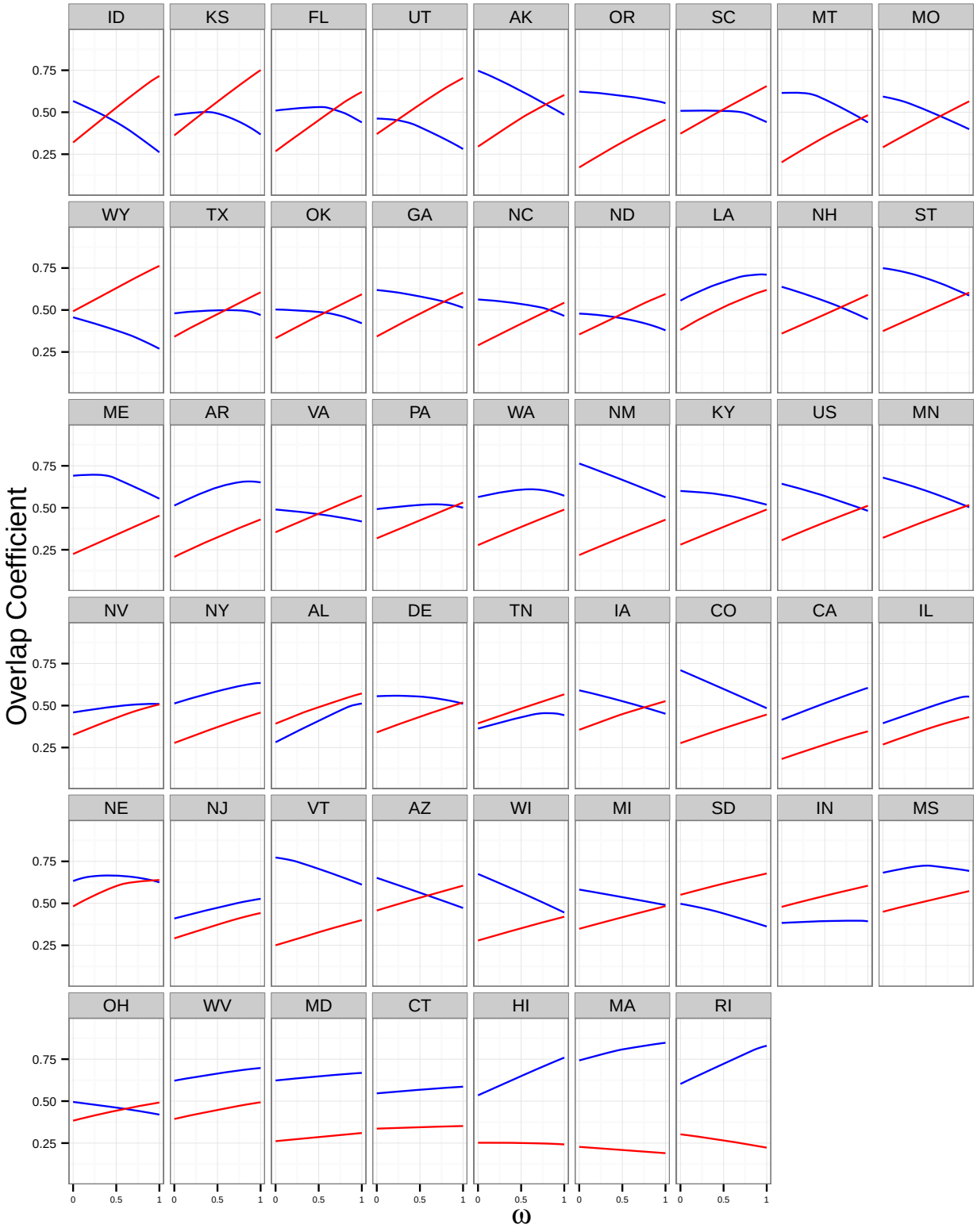

Figure 5: Predicted Overlap Coefficient for State Judges and Politicians by Party For Values of ω. Note: The lines are color coded by party (Dem = Blue; Rep = Red). The panels are ordered by the predicted increase in the overlap coefficient for Republicans moving from $\omega = 0$ to $\omega = 1$. Federal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

(on the Y-axis) varies according to values of 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 ω indicates that the party stands to benefit from the increased use of ideology in judicial selection; a negative relationship suggests that the use of ideology in judicial selection 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 ideological selection in nearly every state and also in the federal system. In only two strongly Democratic states, Massachusetts and Rhode Island, are Republicans worse off from increased ideological selection. 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 ideologically-based judicial selection. 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.

Empirical Evidence of Ideologically-Based Judicial Selection. Figure 5 serves to highlight the various ways in which the configuration of attorneys can shape the parties' incentives. Given these incentives, how many jurisdictions actually exhibit evidence of ideologically-based judicial selection?

We test for ideologically-based judicial selection by examining 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, which reflects the law (or custom) in many jurisdictions that require attorneys to practice law for some years before becoming judges. 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) "Strong Evidence of Ideological Selection," or those with a statistically significant difference (p-value ≤ 0.05) and (2) "Weak or No Evidence of Ideological Selection," 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.[20]

To place these results in context, Figure 6 plots the mean position for attorneys (A), judges (J), and elected politicians (P) for each state as well as for the federal courts (denoted by "US").[21] 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 states where there is evidence of ideologically-based judicial selection. (This includes the federal courts as well.) We note that this is the case for four key states identified as having strong incentives to increase the reliance of ideology in judicial selection (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 empirical assumptions we made in our theoretical discussion. Thus, we have strong evidence of ideologically-based judicial selection in a number of jurisdictions, with the move toward incorporating ideology in selection mostly working to Republicans' advantage.

Surprisingly, the figure also reveals that, even among states that exhibit evidence of ideologically-based judicial selection, judges are generally closer to attorneys than to politicians. This suggests that most judiciaries are only partially ideologically-based in terms of their selection. There are two exceptions. 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

[20]The individual state-level results for these tests are included in the Appendix.

[21]The positions for politicians (P) average over the DIME scores for all politicians elected *in the jurisdiction* between 2004 and 2012. This provides a measure of state policy centrality based on the revealed preferences of voters in the state by leveraging information on the types of candidates they have elected in the past. This measurement strategy is similar to the one used by (Berry et al., 2013) to construct measures of citizen and institutional ideology. Berry et al. (2013) make use of ADA ratings or roll call scores of congressional delegates from a state to infer overall measures of ideology for the state. By comparison, our measures of state-level ideology are derived from the DIME scores for a much larger set of officeholders elected in the state. We note that our measures strongly correlate with alternative measures of state ideology, including the aforementioned measures of citizen and governmental ideology and two-party presidential vote shares. (See Supplemental Appendix N for details.)

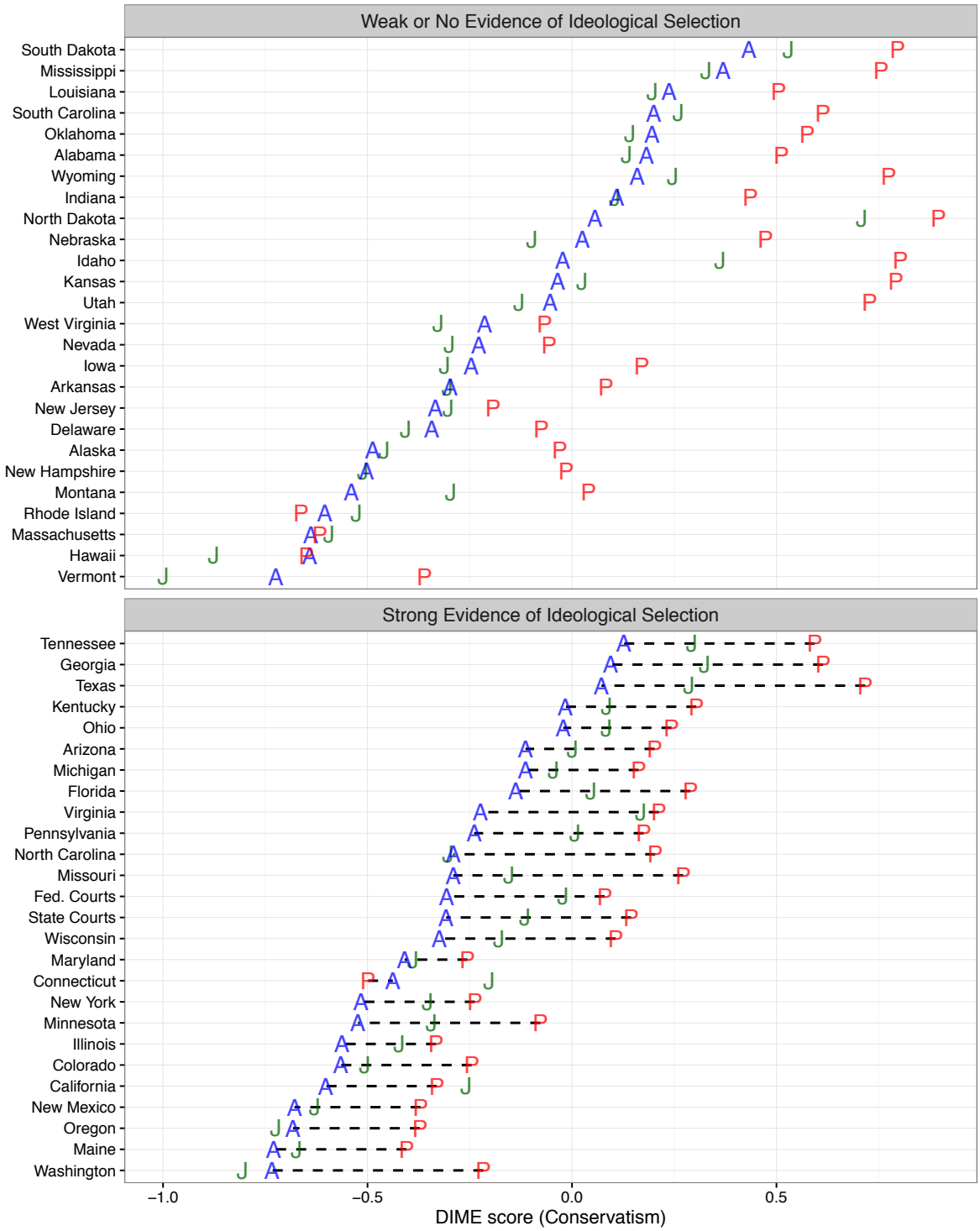

Figure 6: Comparison of average ideology of judges, politicians, and attorneys.

Note: States are first grouped into two categories based on evidence of ideologically-based judicial selection. The first groups 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. The symbols are interpreted as follows: A = Attorneys, J = Judges, and P = Politicians.

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 ideologically-based judicial selection.

Also intriguing is the lack of evidence of ideologically-based judicial selection in roughly half of the states, including some states we identified as having an incentives to increase the reliance on ideology in judicial selection in Figure 5. The failure to reject the null in some less-populous states such as Alaska, Idaho, North Dakota, South Dakota, and 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 increase the reliance on ideology in judicial selection (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.

8 Ideologically-Based Judicial Selection and Judicial Selection Methods

These analyses raise questions about how the rules and procedures for selecting judges may facilitate (or present obstacles to) ideologically-based judicial selection. For example, partisan elections likely lead voters to weigh partisanship and ideology more so than 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 the ability of governors 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 the preferences of attorneys. 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 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 Martindale-Hubbell 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 or 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.[22] 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 4.

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:

$$J_{si} \sim (P_s + A_s) * (Appointed_{si} + Merit_{si} + Partisan\,Election_{si} + Nonpartisan\,Election_{si}) + X_{si} \quad (1)$$

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 4.

Figure 7 visualizes how judicial ideology changes in response to lawyers and politicians. The X-axes 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

[22] *Judgepedia* allows us to identify judges' initial method of selection for interim replacements.

	Model 1	**Model 2**
Appointed	0.187	0.310*
	(0.128)	(0.106)
Merit	0.392*	0.461*
	(0.092)	(0.090)
Partisan Election	0.132	0.134
	(0.093)	(0.094)
Non-Partisan Election	0.501*	0.469*
	(0.079)	(0.081)
Avg. Lawyer×Partisan Election	0.044	0.047
	(0.171)	(0.174)
Avg. Lawyer×Non-Partisan Election	1.152*	1.097*
	(0.107)	(0.112)
Avg. Lawyer×Merit	1.108*	1.255*
	(0.173)	(0.164)
Avg. Lawyer×Appointed	0.070	0.347
	(0.353)	(0.241)
Avg. Politician×Partisan Election	0.627*	0.594*
	(0.117)	(0.119)
Avg. Politician×Non-Partisan Election	−0.297*	−0.246*
	(0.097)	(0.104)
Avg. Politician×Merit	−0.230*	−0.246*
	(0.107)	(0.105)
Avg. Politician×Appointed	0.675*	0.558*
	(0.247)	(0.180)
Years Since Admitted	−0.013*	−0.013*
	(0.003)	(0.004)
Years Since Admitted^2	0.0001*	0.0001*
	(0.00004)	(0.00004)
Female	−0.256*	−0.256*
	(0.019)	(0.019)
Top 14 Law School	−0.127*	−0.129*
	(0.027)	(0.027)
$>$ 100 Ranked Law School	0.039*	0.036*
	(0.016)	(0.016)
In-State Law School	0.033*	0.031*
	(0.016)	(0.016)
R-squared	0.166	0.166
N	9678	9678

*p $<$ .01

Table 4: Analysis of different judicial selection methods.

Note: Contributor DIME scores are the outcome variable. Model 1 categorizes selection method based on the procedure used by a given court under normal circumstances. Model 2 allows the selection method to vary within courts based on whether a judge was initially selected as interim replacement via method different than the one typically used for the court.

aids in reflecting either lawyers' or political actors' ideologies. For example, consider gubernatorial/legislative appointments. The figure shows that when judges are appointed in this manner,

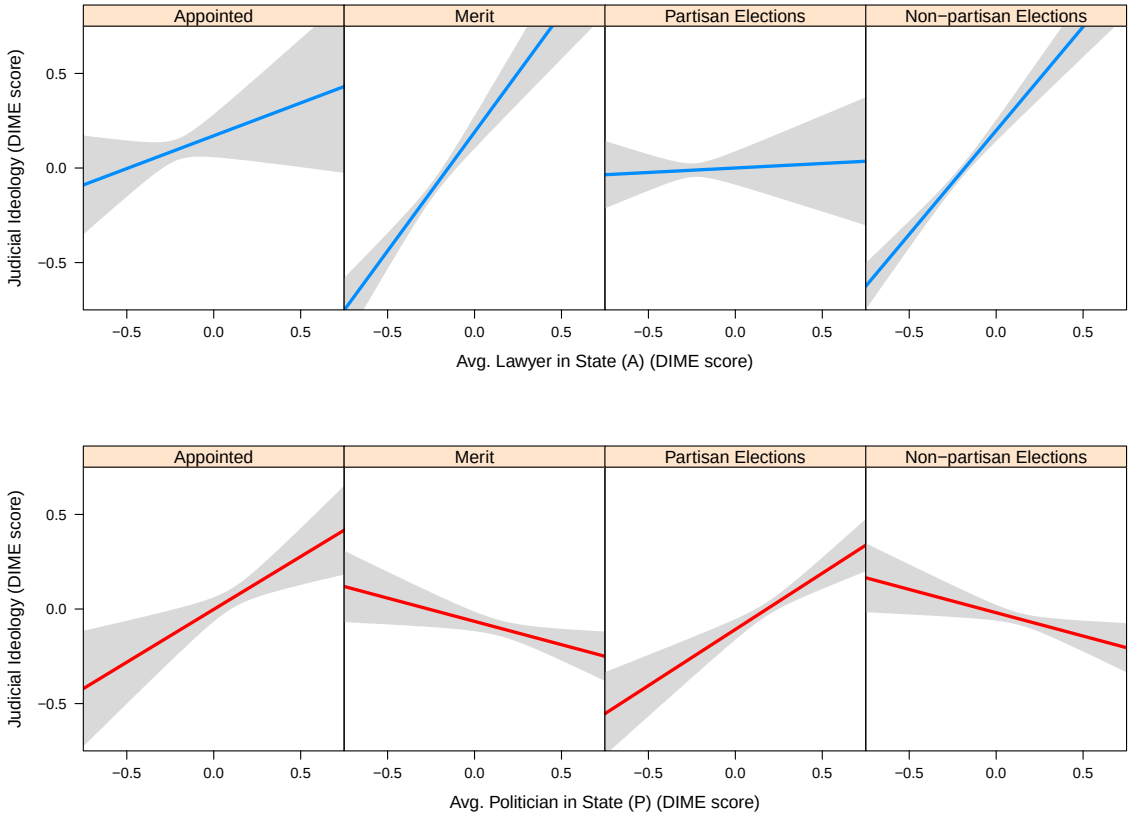

Figure 7: Predicted judicial ideology by (1) lawyers' ideologies (top) and (2) politicians' ideologies (bottom) by judicial selection mechanism.

judicial ideology is unresponsive to changes in attorney ideology but is highly sensitive to changes in the ideology of political actors. (This relationship is also seen with respect to the interaction effects in Table 4.) The results are similar for partisan elections. Partisan elections produce judiciaries that closely resemble politicians in a state even if attorneys do not. This suggests that when judges are selected via gubernatorial/legislative appointment or partisan elections, ideology informs decisions about who should serve on the bench in much the same way as it does for other political offices.[23]

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

[23]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 [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 -.28 [-0.48, -0.10] for *Nonpartisan Elections*.

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 are less sensitive to the ideology of politicians, and the relationship is inverted.

In summary, the evidence strongly supports the claim that selection methods are central to understanding ideologically based judicial selection. Selection systems that utilize merit commissions and non-partisan elections exhibit lower levels of ideologically based judicial selection, 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. In addition, the importance of judicial selection methods in shaping the judicial is reflected in partisan politics. Conservative-leaning groups and politicians have led reform attempts oriented at reducing the power of merit commissions, which they contend give undue influence to the bar; given a general right-ward shift in state politics across several states (Kansas, Iowa, North Carolina), we might see increased reform attempts in these directions. 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.

9 Strategic Ideologically-Based Judicial Selection 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 ideologically-based judicial selection have not been felt uniformly throughout the judicial hierarchy, as shown by Figure 4. To explain this, we consider that qualified nominees

to the courts are a scarce resource. Given that supply of attorneys on the right is comparatively more limited (as evidenced by Section 5 and Figure 3), conservative political actors are better off by prioritizing resources for the higher courts (including federal courts), where decision making is both more likely to be predicted by ideology and more important (Sunstein et al., 2006).[24]

In terms of our analyses, if conservative elites are actively seeking out and recruiting potential conservative candidates from a smaller pool, then this should be empirically demonstrable in examining the population of lawyers conditional on education. That is *conditional on elite legal training, 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 small 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 according to ideology, conditional on being an elite law graduate. Substantively, the Figure shows that conservative graduates of elite law schools are significantly 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. (To provide some context, this is about the distance between Ted Cruz (R-TX) and Elizabeth Warren (D-MA).) The corresponding likelihoods for federal district judges and state high court judges are three times and nearly six times greater, respectively, for conservatives. In line with results presented above, conservative graduates of elite

[24] An 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. 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/). 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.

	Fed. CoA	Fed. District	State High Court	State Lower Court
DIME score	0.722*	0.376*	0.573*	0.066
	(0.157)	(0.099)	(0.200)	(0.049)
Years since Admitted	0.223*	0.067*	0.295	0.138*
	(0.083)	(0.039)	(0.135)	(0.020)
Years since Admitted^2	−0.003	−0.001	−0.004	−0.001*
	(0.001)	(0.0005)	(0.002)	(0.0002)
Constant	−11.105*	−7.192*	−11.606*	−7.466*
	(1.615)	(0.740)	(2.262)	(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

Table 5: Probability of Judgeship for Graduates of Top 14 Law Schools (At Least 15 Years since Bar Admission)

law schools not significantly more likely to serve as state lower court judges. The disparity further intensifies when subsetting more narrowly on alumni of Harvard, Yale, and the University of Chicago. 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.

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, with conservatives slightly more than twice as likely than their liberal counterparts to be selected to serve on the federal bench.[25] These findings are consistent with our theoretical predictions, which are that efforts to more strongly incorporate ideology in judicial selection 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 a greater degree of ideological selection at higher courts.

[25]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. Additional findings on law professors can be found in Bonica, Chilton, Rozema, and Sen (2017), which show that the legal academy is more left-leaning than lawyers overall, but that this varies by subject area and universities.

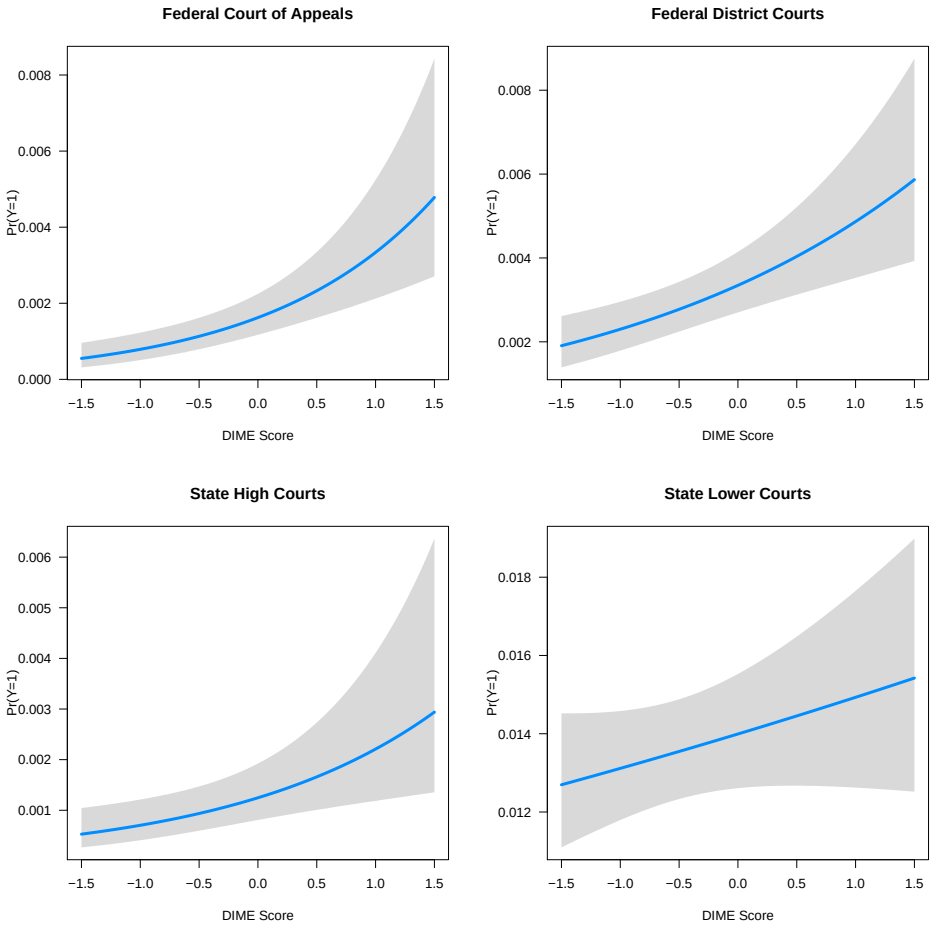

Figure 8: Predicted Probability of Judgeship by Ideology for Graduates of Top 14 Law Schools (At Least 15 Years since Bar Admission)

10 Concluding Remarks

In this paper, we analyze the most comprehensive data available today on the political preferences of the legal community. We used this data to make several contributions. The first is that partisan efforts to shape the judiciary cannot be 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 as well as for those trying to interject more ideological diversity onto the courts.

Second, we have shown that judicial ideology often departs from the preferences of attorneys. The higher the court, the more it deviates from the overall population of attorneys. The most compelling explanation for this is that politicians prioritize seating like-minded judges higher up in the judiciary, especially when the selection mechanism affords the opportunity do so. As evidence of this, we have demonstrated that higher courts exhibit heightened levels of ideologically-based judicial selection and that conservative graduates of top law schools are much more likely to become judges.

Third, although we see strong evidence of ideologically-based judicial selection in the federal courts, many state courts exhibit little to no signs of ideologically-based judicial selection. 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 which party is the most likely to call for judicial reform in a given state, 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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Supplemental Appendix

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,"[26] 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.[27] 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

[26] 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.

[27] 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.

used automated disambiguation techniques to standardize entries for employer, law schools and undergraduate institutions, and practice areas.[28] 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.[29]

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.

Missingness in Martindale-Hubbell One limitation of the Martindale-Hubbell database is potential missingness in the data. To our knowledge, no study has systematically assessed the completeness in legal directories such as the Martindale-Hubbell. Thus, we do not know the exact extent of underreporting or precisely which types of lawyers are most likely to be missing.

A challenge in examining missiningness in the data is that there exists no official tally of lawyers to compare against. Estimates of the number of lawyers in the U.S. can vary considerably.

[28] 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.

[29] 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.

For example, the Bureau of Labor Statistics (BLS) estimates there to be about 600,000 lawyers employed in the labor force, whereas the American Bar Association (ABA) estimates there to be more than 1.2 million lawyers.[30] This discrepency is in part explained by methodological differences but is also a matter of scope in defining lawyers as a group.

The BLS estimates appear to exclude individuals practicing law outside the confines of legal practices, which could explain why its population estimate is so low. The ABA uses a broader definition. Its estimates are constructed by summing the populations of lawyers active in each state as reported by state bar associations. This approach can be prone to double-counting, owing to lawyers to be members of multiple state bar associations. The ABA does adjust for out-of-state members of state bar associations, but it is difficult to keep track of members who have moved to different state. The Martindale-Hubbell directory appears to have dedupped cases where lawyers would might otherwise be double-counted by the ABA.

We cannot know for sure whether some types of attorneys are more likely to be missing than others. However, a reasonable expectation is that lawyers in private practice are more likely to be captured by the directory than lawyers employed in-house or in goverment positions. The reason for this is two-fold. First, lawyers in private practice have incentives to make sure they are listed in legal directories so that potential clients will be able to find them more easily. The same is not true of many other lawyers. Second, bar membership is always a requisite for lawyers practicing as in-house counsels, which may make them more less visible to state bar associations.

[30] http://www.americanbar.org/resources_for_lawyers/profession_statistics.html

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 rate of 43.3%, an order of magnitude greater than the participation rate among the voting age population (Bonica, 2014).[31,32]

Regarding judges who are donors, a potential selection problem concerns regulations that prohibit federal and some state judges from making political contributions.[33] 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 probit model as additional covariates. Results from the first-stage probit model are reported in Table A1. 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

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

[32] 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.

[33] 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.

status, and some basic measures of quality of legal education.[34] Model 2 further includes the Democratic vote share in the last Presidential election for the individual's Congressional district, which captures how liberal (or conservative) the jurisdiction is. (Results from the second-stage model are reported in Table 2 in the main text.)

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.[35] 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. The F-statistic for the number of

[34] 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. Law school attended is observed for 92% of the sample, of whom 13% attended a "T14" law schools. In cases where law school is not reported, we assume lawyers attended non-"T14" law school. 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-Hubbell data.

[35] 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).

	Model 1	**Model 2**	**Model 3**	**Model 4**
Judge	-0.134^*	-0.142^*		
	(0.008)	(0.009)		
Fed. Admin. Judge	-0.454^*	-0.472^*	-0.451^*	-0.468^*
	(0.084)	(0.085)	(0.084)	(0.085)
State Admin. Judge	-0.334^*	-0.342^*	-0.332^*	-0.339^*
	(0.057)	(0.057)	(0.057)	(0.057)
Fed. Mag.	-0.350^*	-0.367^*	-0.482^*	-0.506^*
	(0.033)	(0.033)	(0.032)	(0.032)
State Lower Court			-0.095^*	-0.085^*
			(0.011)	(0.011)
State High Court			0.038	0.023
			(0.071)	(0.071)
Fed. District Court			-0.206^*	-0.218^*
			(0.039)	(0.039)
Fed. CoA			-0.017	-0.028
			(0.088)	(0.088)
Female	-0.336^*	-0.340^*	-0.337^*	-0.340^*
	(0.003)	(0.003)	(0.003)	(0.003)
Years since Admitted	0.068^*	0.069^*	0.068^*	0.068^*
	(0.0003)	(0.0003)	(0.0003)	(0.0003)
Years since Admitted^2	-0.001^*	-0.001^*	-0.001^*	-0.001^*
	(0.00001)	(0.00001)	(0.00001)	(0.00001)
Top 14 Law School	0.323^*	0.340^*	0.324^*	0.341^*
	(0.004)	(0.004)	(0.004)	(0.004)
$>$ 100 Ranked Law School	-0.099^*	-0.084^*	-0.098^*	-0.084^*
	(0.003)	(0.003)	(0.003)	(0.003)
Num Elected Execs	0.038^*		0.038^*	
	(0.001)		(0.001)	
Constant	-1.327^*	-1.001^*	-1.325^*	-0.999^*
	(0.006)	(0.026)	(0.006)	(0.026)
State Fixed Effects		✓		✓
Log Likelihood	-606942.7	-600758.9	-607014.5	-600850.5
Chi-square	102024.4^*	114391.9^*	101880.9^*	114208.7^*
N	974419	974419	974419	974419

$^*p < .01$

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

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.

Appendix C Measure Validation

Comparison with Candidate Scores for Lawyers 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 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 (2015) 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 (2015) 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, 2015). 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 2 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 3, 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 3, 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.

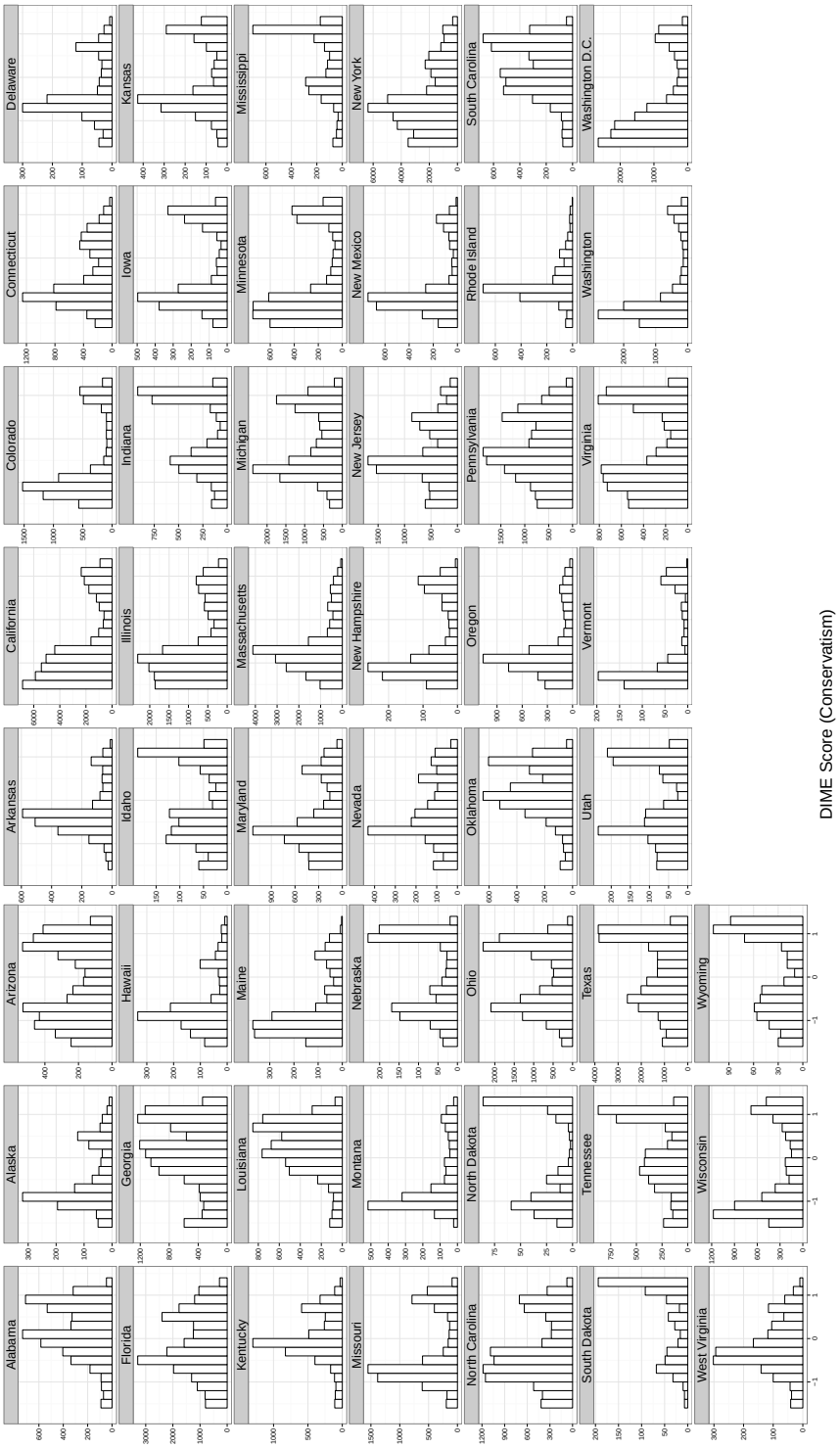
Appendix F Distribution Comparisons of Judges with Politicians and Attorneys by State

Table A2: Comparing Attorney and Politician Distributions with Judges

	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

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 Most Lawyers (and Judges) Give Exclusively to One Party

Figure A2: Distribution of political contributions by lawyers, 1979-2012

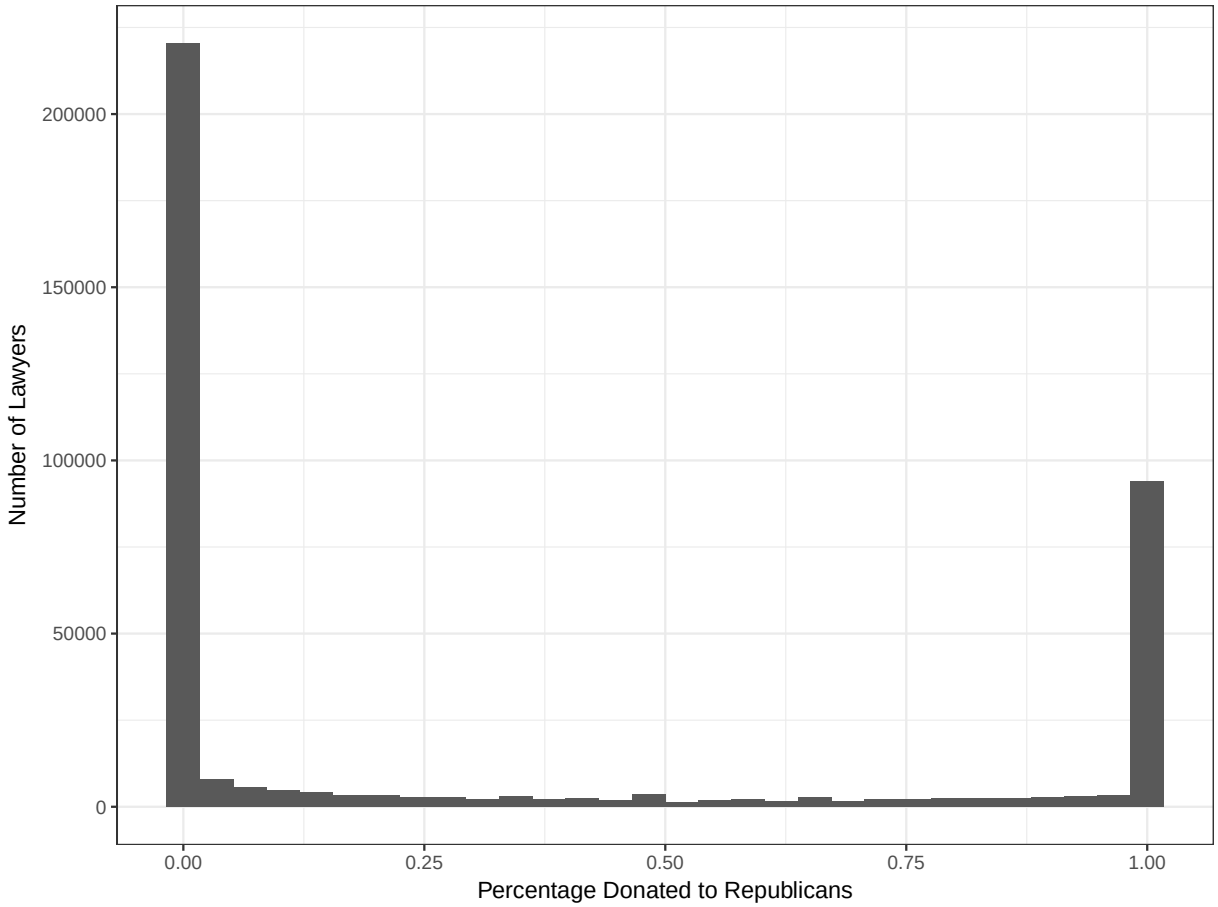
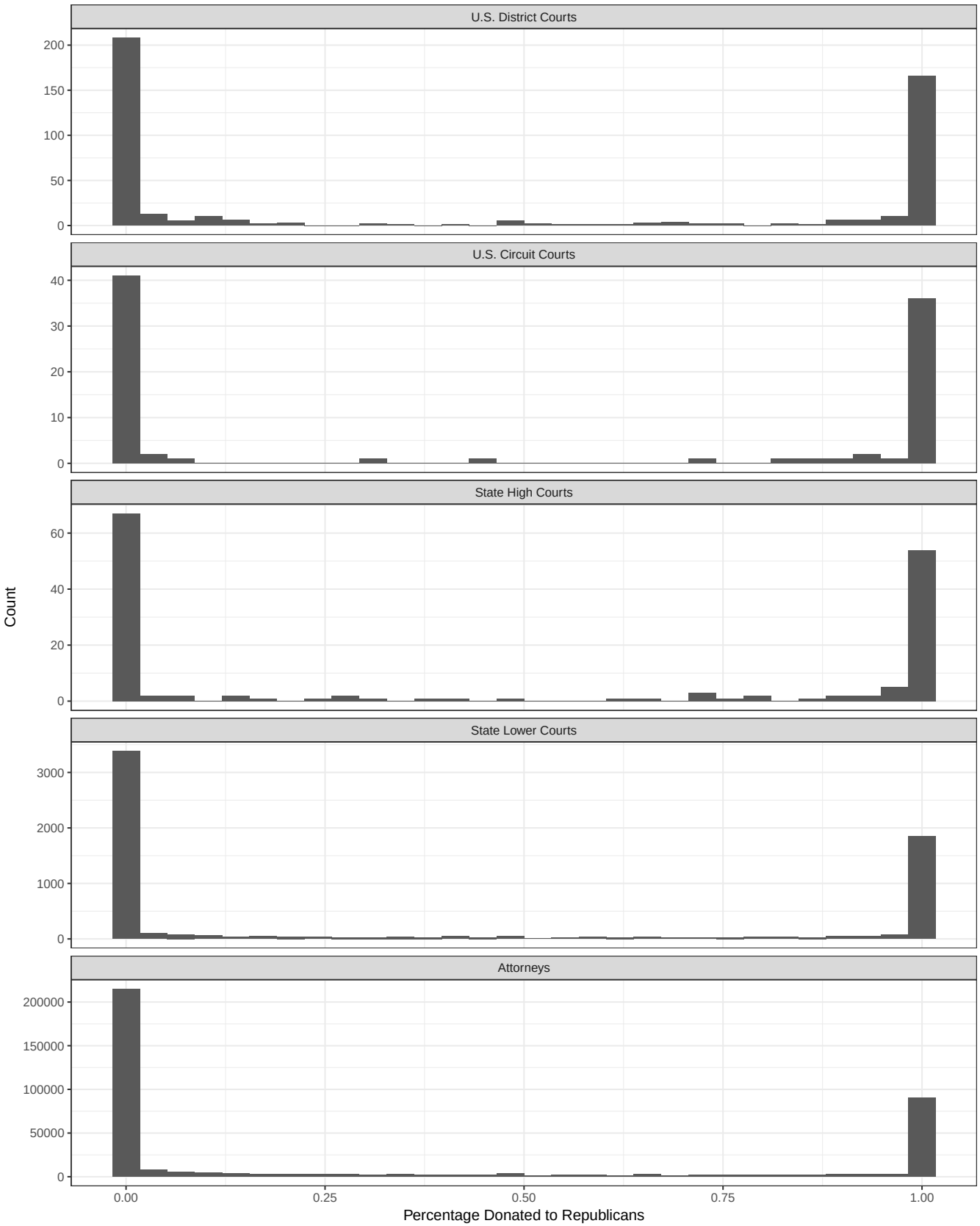


Figure A3: Distribution of political contributions by Judges, 1979-2012



Appendix I First-stage Results From Heckman Model

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

	Model 1	**Model 2**	**Model 3**	**Model 4**
Judge	-0.134^{*}	-0.142^{*}		
	(0.008)	(0.009)		
Fed. Admin. Judge	-0.454^{*}	-0.472^{*}	-0.451^{*}	-0.468^{*}
	(0.084)	(0.085)	(0.084)	(0.085)
State Admin. Judge	-0.334^{*}	-0.342^{*}	-0.332^{*}	-0.339^{*}
	(0.057)	(0.057)	(0.057)	(0.057)
Fed. Mag.	-0.350^{*}	-0.367^{*}	-0.482^{*}	-0.506^{*}
	(0.033)	(0.033)	(0.032)	(0.032)
State Lower Court			-0.095^{*}	-0.085^{*}
			(0.011)	(0.011)
State High Court			0.038	0.023
			(0.071)	(0.071)
Fed. District Court			-0.206^{*}	-0.218^{*}
			(0.039)	(0.039)
Fed. CoA			-0.017	-0.028
			(0.088)	(0.088)
Female	-0.336^{*}	-0.340^{*}	-0.337^{*}	-0.340^{*}
	(0.003)	(0.003)	(0.003)	(0.003)
Years since Admitted	0.068^{*}	0.069^{*}	0.068^{*}	0.068^{*}
	(0.0003)	(0.0003)	(0.0003)	(0.0003)
Years since Admitted^2	-0.001^{*}	-0.001^{*}	-0.001^{*}	-0.001^{*}
	(0.00001)	(0.00001)	(0.00001)	(0.00001)
Top 14 Law School	0.323^{*}	0.340^{*}	0.324^{*}	0.341^{*}
	(0.004)	(0.004)	(0.004)	(0.004)
$>$ 100 Ranked Law School	-0.099^{*}	-0.084^{*}	-0.098^{*}	-0.084^{*}
	(0.003)	(0.003)	(0.003)	(0.003)
Num Elected Execs	0.038^{*}		0.038^{*}	
	(0.001)		(0.001)	
Constant	-1.327^{*}	-1.001^{*}	-1.325^{*}	-0.999^{*}
	(0.006)	(0.026)	(0.006)	(0.026)
State Fixed Effects		✓		✓
Log Likelihood	-606942.7	-600758.9	-607014.5	-600850.5
Chi-square	102024.4^{*}	114391.9^{*}	101880.9^{*}	114208.7^{*}
N	974419	974419	974419	974419

$^{*}p < .01$

Appendix J Modeling Judicial Ideology without Selection Bias Correction

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

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

* $p < .01$

Appendix K Selection Model With Lawyers Admitted to the Bar within the Last 15 Years Excluded

Table A5: Probit regression, whether individual contributes (is in DIME database) as outcome variable (>= 15 Years since Bar Admission)

	Model 1	**Model 2**	**Model 3**	**Model 4**
Constant	-1.383^{*}	-1.021^{*}	-1.377^{*}	-1.015^{*}
	(0.012)	(0.030)	(0.012)	(0.030)
Judge	-0.147^{*}	-0.157^{*}		
	(0.009)	(0.009)		
Fed. Admin. Judge	-0.457^{*}	-0.479^{*}	-0.454^{*}	-0.475^{*}
	(0.084)	(0.085)	(0.084)	(0.085)
State Admin. Judge	-0.372^{*}	-0.383^{*}	-0.369^{*}	-0.379^{*}
	(0.058)	(0.058)	(0.058)	(0.058)
Fed. Mag.	-0.345^{*}	-0.366^{*}	-0.489^{*}	-0.519^{*}
	(0.034)	(0.034)	(0.033)	(0.033)
State Lower Court			-0.104^{*}	-0.096^{*}
			(0.011)	(0.011)
State High Court			0.034	0.003
			(0.071)	(0.071)
Fed. District Court			-0.205^{*}	-0.220^{*}
			(0.039)	(0.039)
Fed. CoA			-0.015	-0.027
			(0.088)	(0.088)
Female	-0.329^{*}	-0.332^{*}	-0.330^{*}	-0.333^{*}
	(0.004)	(0.004)	(0.004)	(0.004)
Years since Admitted	0.069^{*}	0.070^{*}	0.069^{*}	0.069^{*}
	(0.001)	(0.001)	(0.001)	(0.001)
Years since Admitted^2	-0.001^{*}	-0.001^{*}	-0.001^{*}	-0.001^{*}
	(0.00001)	(0.00001)	(0.00001)	(0.00001)
Top 14 Law School	0.299^{*}	0.325^{*}	0.300^{*}	0.326^{*}
	(0.005)	(0.005)	(0.005)	(0.005)
$>$ 100 Ranked Law School	-0.100^{*}	-0.085^{*}	-0.099^{*}	-0.085^{*}
	(0.003)	(0.003)	(0.003)	(0.003)
Num Elected Execs	0.048^{*}		0.048^{*}	
	(0.001)		(0.001)	
State Fixed Effects		✓		✓
N	716062	716062	716062	716062
Log Likelihood	-476725.600	-471476.100	-476813.600	-471587.800
Chi-square	37152.6^{*} (df = 10)	47651.7^{*} (df = 60)	36976.7^{*} (df = 13)	47428.2^{*} (df = 63)

* $p < .01$

Table A6: Second-stage Results: OLS, Contributor DIME score as outcome variable (>= 15 Years since Bar Admission)

	Model 1	**Model 2**	**Model 3**	**Model 4**
Judge	0.108*	0.126*		
	(0.009)	(0.013)		
Fed. Admin. Judge	0.058	0.145	0.059	0.161
	(0.094)	(0.091)	(0.094)	(0.091)
State Admin. Judge	−0.186*	−0.016	−0.185*	−0.003
	(0.064)	(0.063)	(0.064)	(0.063)
Fed. Mag.	−0.150*	−0.043	−0.040	0.102
	(0.040)	(0.044)	(0.040)	(0.051)
State Lower Courts			0.068*	0.112*
			(0.011)	(0.012)
State High Courts			0.279*	0.213*
			(0.067)	(0.059)
Fed. District Courts			0.195*	0.208*
			(0.039)	(0.038)
Fed. CoA			0.379*	0.384*
			(0.082)	(0.073)
Female	−0.467*	−0.306*	−0.464*	−0.293*
	(0.009)	(0.024)	(0.009)	(0.024)
Years since Admitted	0.015*	−0.010	0.015*	−0.012
	(0.002)	(0.005)	(0.002)	(0.005)
Years since Admitted^2	−0.0001*	0.0002*	−0.0001*	0.0002*
	(0.00002)	(0.0001)	(0.00002)	(0.0001)
Top 14 Law School	−0.158*	−0.143*	−0.161*	−0.155*
	(0.008)	(0.021)	(0.008)	(0.021)
$>$ 100 Ranked Law School	0.046*	0.055*	0.047*	0.058*
	(0.004)	(0.007)	(0.004)	(0.007)
Constant	−1.013*	−0.280	−0.998*	−0.198
	(0.061)	(0.159)	(0.061)	(0.160)
State Fixed Effects		✓		✓
N	716062	716062	716062	716062
R-squared	0.053	0.148	0.052	0.148
ρ	0.604	−0.024	0.595	−0.099
Inverse Mills Ratio	0.560*	−0.019	0.550*	−0.077
	(0.038)	(0.107)	(0.037)	(0.108)

* $p < .01$

Appendix L Alternative Specification of Selection Model with Binary Outcome Variable

Table A7: Second-stage Results: Binary Indicator for Donor is Conservative (DIME score > 0) as outcome variable

	Model 1	**Model 2**	**Model 3**	**Model 4**
Judge	0.079*	0.177*		
	(0.012)	(0.011)		
Fed. Admin. Judge	−0.024	0.369*	−0.026	0.366*
	(0.117)	(0.124)	(0.117)	(0.124)
State Admin. Judge	−0.288*	0.074	−0.289*	0.072
	(0.083)	(0.083)	(0.083)	(0.082)
Fed. Mag.	−0.210*	0.136*	−0.133*	0.310*
	(0.047)	(0.050)	(0.047)	(0.049)
State Lower Courts			0.038*	0.126*
			(0.014)	(0.014)
State High Courts			0.259*	0.208
			(0.081)	(0.086)
Fed. District Courts			0.187*	0.307*
			(0.050)	(0.049)
Fed. CoA			0.417*	0.429*
			(0.100)	(0.100)
Female	−0.514*	−0.157*	−0.514*	−0.154*
	(0.005)	(0.021)	(0.005)	(0.021)
Years since Admitted	0.032*	−0.038*	0.032*	−0.038*
	(0.001)	(0.002)	(0.001)	(0.002)
Years since Admitted^2	−0.0003*	0.001*	−0.0003*	0.001*
	(0.00002)	(0.00002)	(0.00002)	(0.00002)
Top 14 Law School	−0.137*	−0.323*	−0.138*	−0.325*
	(0.011)	(0.007)	(0.011)	(0.007)
$>$ 100 Ranked Law School	0.054*	0.103*	0.054*	0.103*
	(0.006)	(0.004)	(0.006)	(0.004)
Constant	−1.470*	0.656*	−1.472*	0.658*
	(0.037)	(0.073)	(0.037)	(0.072)
State Fixed Effects		✓		✓
N	974419	974419	974419	974419
Log Likelihood	−855467.7	−836159.2	−855588.8	−836262.5
ρ	0.759*	−0.713*	0.761*	−0.716*
	(0.030)	(0.035)	(0.030)	(0.034)

* $p < .01$

Note: The outcome variable is assigned a value of 1 if Contributor DIME score is positive and 0 otherwise. This specification codes 257,327 individuals (65%) as liberal and 137,927 (35%) as conservative. This provides a near one-to-one mapping to coding donors based on whether they had given more money to Democrats or Republicans. The models are fit using a maximum-likelihood estimator (in place of the Heckmann two-step estimator) that allows for binary outcomes in the selection model.

Appendix M Selection Model With DIME scores Recalculated with Selected Groups of Candidates Excluded

Table A8: Probit regression, whether individual contributed to valid recipient as outcome variable.

	All Candidates	**Excluding Conts. To Judicial Candidates**	**Federal Candidates Only**
Fed. Admin. Judge	0.353*	0.361*	0.188
	(0.095)	(0.100)	(0.124)
State Admin. Judge	0.114*	0.117*	0.017
	(0.064)	(0.067)	(0.090)
Fed. Mag.	0.325*	0.340*	0.236*
	(0.044)	(0.047)	(0.082)
State Lower Courts	0.140*	0.161*	0.168*
	(0.012)	(0.012)	(0.032)
State High Courts	0.192*	0.263*	0.249*
	(0.069)	(0.074)	(0.085)
Fed. District Courts	0.280*	0.281*	0.264*
	(0.041)	(0.042)	(0.047)
Fed. CoA	0.387*	0.448*	0.434*
	(0.084)	(0.090)	(0.096)
Female	−0.126*	−0.130*	−0.343*
	(0.017)	(0.018)	(0.027)
Years since Admitted	−0.033*	−0.035*	−0.011*
	(0.003)	(0.003)	(0.006)
Years since Admitted^2	0.0005*	0.001*	0.0002*
	(0.00004)	(0.00004)	(0.0001)
Top 14 Law School	−0.308*	−0.325*	−0.239*
	(0.015)	(0.016)	(0.039)
$>$ 100 Ranked Law School	0.107*	0.114*	0.101*
	(0.005)	(0.005)	(0.014)
Constant	0.627*	0.640*	−0.127
	(0.003)	(0.003)	(0.003)
State Fixed Effects	✓	✓	✓
N	962361	962361	962361
Log Likelihood	−594492.0	−593687.3	−519532.1

*p $<$ .01

Table A9: Second-stage Results: OLS, Contributor DIME Score as Outcome Variable

	All Candidates	**Excluding Conts. To Judicial Candidates**	**Federal Candidates Only**
Fed. CoA	0.424*	0.467*	0.474*
	(0.086)	(0.093)	(0.098)
Fed. District Court	0.285*	0.278*	0.267*
	(0.041)	(0.043)	(0.047)
State High Court	0.195*	0.261*	0.253*
	(0.069)	(0.075)	(0.084)
State Lower Court	0.145*	0.185*	0.172*
	(0.012)	(0.013)	(0.033)
Fed. Mag.	0.329*	0.333*	0.234*
	(0.044)	(0.049)	(0.082)
Fed. Admin. Judge	0.365*	0.376*	0.243
	(0.097)	(0.104)	(0.126)
State Admin. Judge	0.117	0.109	0.023
	(0.065)	(0.069)	(0.091)
Female	-0.128*	-0.144*	-0.344*
	(0.016)	(0.019)	(0.026)
Years since Admitted	-0.034*	-0.035*	-0.011
	(0.003)	(0.004)	(0.006)
Years since Admitted^2	0.0005*	0.001*	0.0002*
	(0.00004)	(0.00005)	(0.0001)
Top 14 Law School	-0.310*	-0.327*	-0.237*
	(0.015)	(0.018)	(0.039)
$>$ 100 Ranked Law School	0.107*	0.118*	0.101*
	(0.005)	(0.006)	(0.014)
Constant	0.643*	0.624*	-0.144
	(0.108)	(0.122)	(0.263)
State Fixed Effects	✓	✓	✓
N	395187	382024	261134
R^2	0.156	0.152	0.118
ρ	-0.773	-0.763	-0.338
Inverse Mills Ratio	-0.770*	-0.797*	-0.328
	(0.069)	(0.079)	(0.138)

*p $<$ .01

Appendix N Judicial Selection Model with Alternative Measures of State Ideology

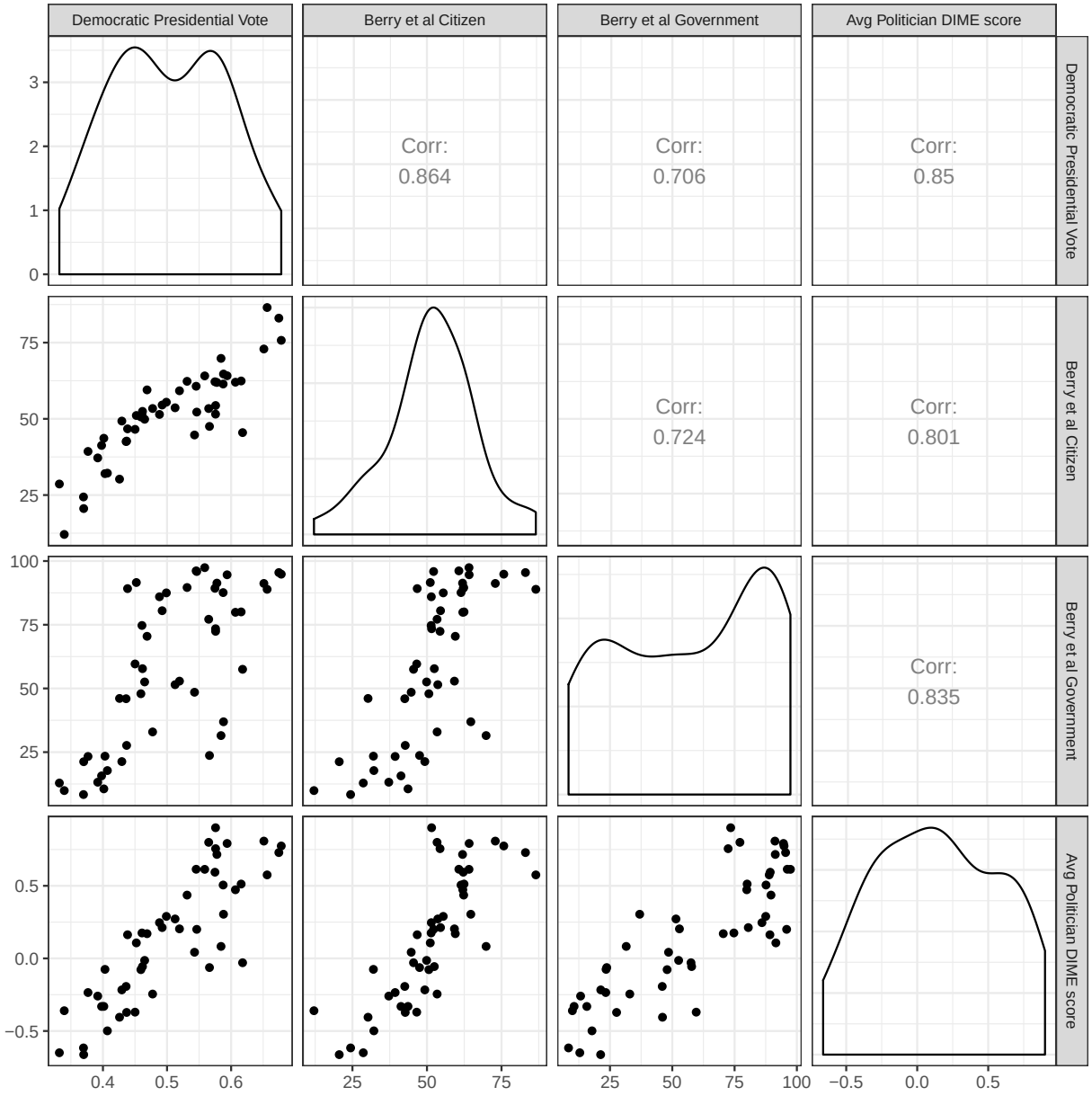


Figure A4: Comparison of Measures of State-Level Ideology

Note: Each row and column corresponds to a different state-level measures of ideology. The first row/column reports the average state-level presidential two-party vote shares for the 2004, 2008, and 2012 election cycles. The second and third row/column report the Berry et al. (2013) measures of citizen and state govenmental ideology. The measures of state govenmental ideology take partisan control of state legislatures into account. The fourth row column reports the average DIME scores for all elected politicians in the state. This measure is used in the main analysis. The lower-left panels plot the bivariate relationship between the corresponding row and column. The upper-right panels reports the Pearson correlations. The diagonal panels display the kernel density of state-level estimates for a given measure.

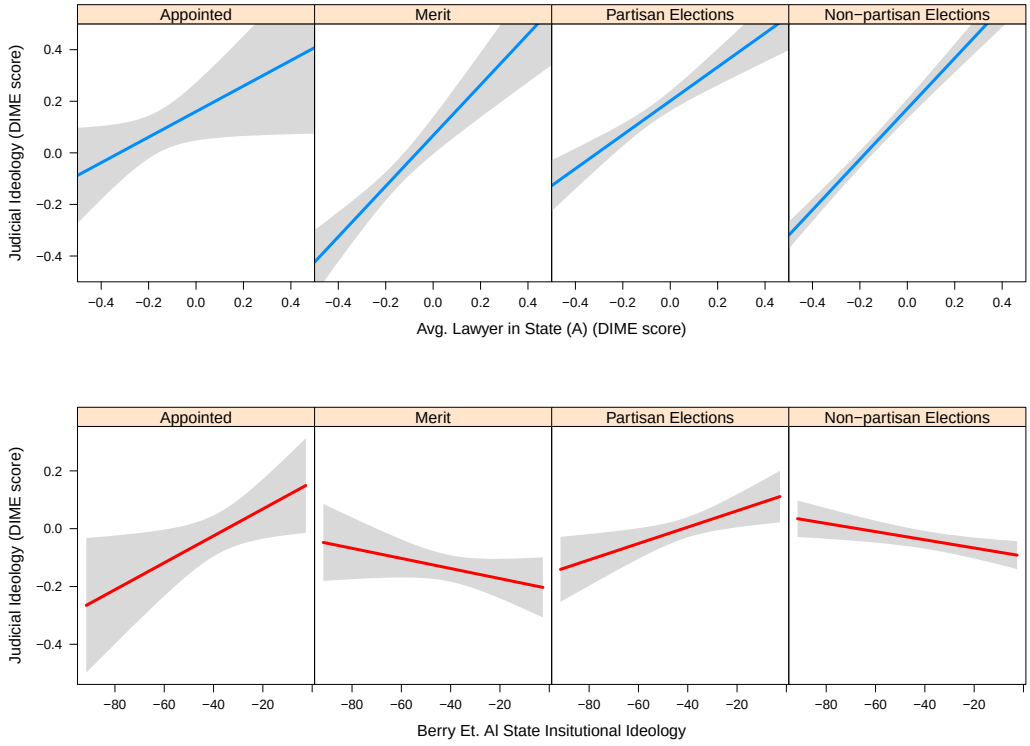


Figure A5: Predicted judicial ideology by (1) lawyers' ideologies (top) and (2) Berry et. al's measures of state government ideology (bottom) by judicial selection mechanism.

Appendix O Comparison of Lawyer DIME Scores to Party Registration

Here we compare the DIME scores for attorneys against party registration data. Party registration data offer the best opportunity to externally validate the measures of lawyer ideology against a corresponding individual-level measure of preferences. Only a fraction of states record party registration data on their voter rolls, and of those that do, most do not make this information publicly available. One exception is Florida. We were able to match 47,601 lawyers in our dataset to their party registration in the Florida voter file, 21,359 of whom have corresponding DIME scores.

The results confirm that the DIME scores are a reliable indicator of partisanship for attorneys. The results also suggest that relying on party affiliation alone would fail to capture important variation in political preferences, both within-party and for registered independents. The average DIME scores by partisan affiliation is -0.476 for Democrats, 0.684 for Republicans, and -0.333 for registered Independents.

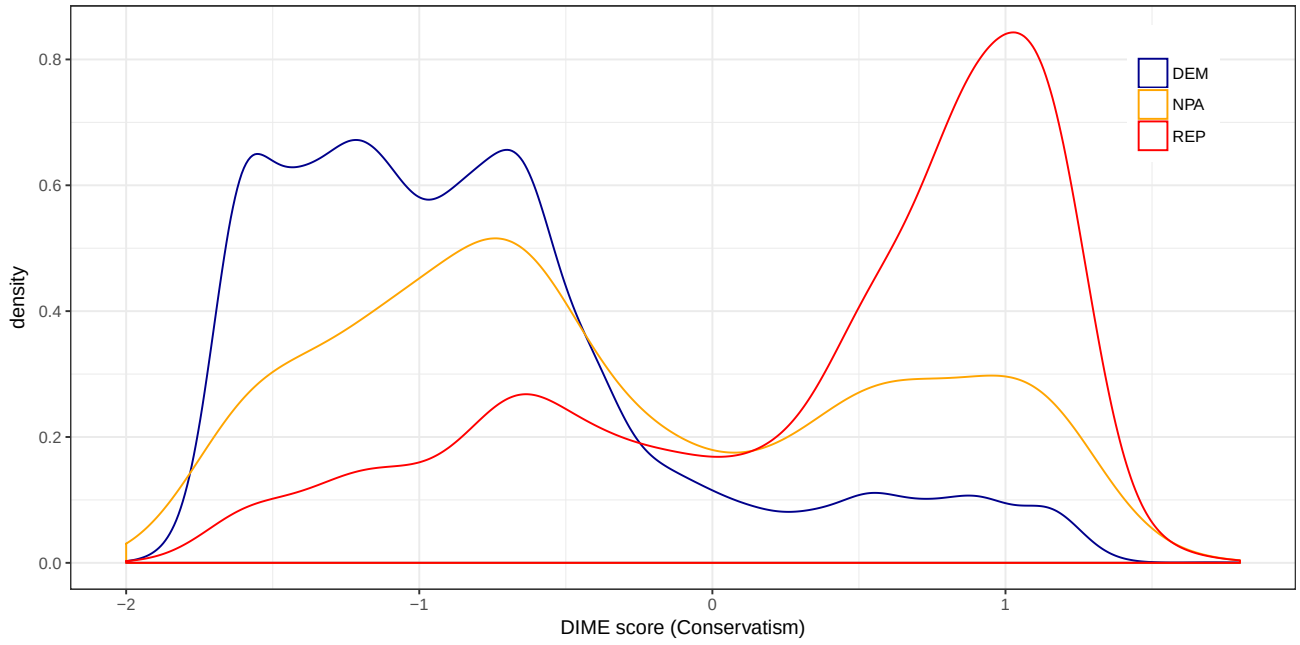


Figure A6: DIME Score Distributions by Party Registration (Florida).
Sources: Florida Secretary of State, Martindale Hubbell, and DIME.