

Elections and Government Accountability: Evidence from the U.S. State Courts*

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Abstract

We investigate the influence of electoral rules and voter information in elections on voting outcomes and accountability of incumbent public officials, using new data on election of state court judges in 40 states in the U.S. from 1990 to 2010. We find, first, that voting is very partisan in partisan judicial elections – i.e., there is a strong correlation between the Democratic “normal vote” and the Democratic vote share for judges – but not in non-partisan or retention elections. This partisan voting behavior cannot be attributed to clear differences between Democratic and Republican judges in their sentencing decisions, since such differences, if any, are small and not consistent. Second, we find that incumbent judges’ quality has little effect on their vote share or probability of winning in partisan elections. By contrast, incumbent judges’ quality has a substantial effect on their vote share and probability of winning in non-partisan elections. Incumbent judges’ quality also has a noticeable effect on their vote share in retention elections, but the magnitude is rarely large enough to affect reelection. Evidence on turnout is consistent with a simple “voting cue” hypothesis. We find that about 94% of the voters who vote on the top office on the ballot also vote on judicial elections in partisan elections. However, when party affiliation of judicial candidates is not on the ballot, only about 71% of those who vote on the top office also vote on judicial candidates. In addition, the amount of media coverage affects voter turnout only in non-partisan elections.

Keywords: government accountability, candidate quality, judicial selection, electoral systems

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1 Introduction

How can citizens select good government officials and hold them accountable for their behavior? This is a central question in political economics. In this study, we investigate how different characteristics of the electoral system affect the relationship between voter behavior and candidate quality. We focus on two prominent features: (1) partisan elections vs. non-partisan elections, and (2) competitive elections vs. retention elections. We ask whether these appear to increase or decrease the degree to which higher quality or better performing candidates receive more votes, and win more elections.

Why should these features of the electoral system matter? First, given the relatively strong party attachments of most U.S. voters, when voters know that candidates' party affiliations are listed on the ballot they might not search for other information that is more difficult to find and remember.¹ Information about candidate quality or performance is likely to fall into the “relatively difficult to find and remember” category. Second, party polarization in the U.S. has evidently been relatively high for at least the past two decades, and a variety of different models predict that when polarization is high candidate quality and performance will have less impact on voting outcomes.² In addition, many voters choose not to abstain non-partisan elections. It is possible that those who vote in non-partisan elections have more information of the “relatively difficult to find and remember” variety than those who do not.

We study these issues in the context of U.S. state judicial elections, focusing particularly on general jurisdiction trial court judges. We do this for reasons. First, there is unique variation in the rules by which state court judges are selected and retained (see Table 1 below). Second, in many states, one or more bar associations routinely evaluate the “quality” of judges and judicial candidates and publish these evaluations. In a few states, a state commission compiles and publishes evaluations. Newspapers often print stories about these evaluations as well. We use two newly collected data bases, one on election results and one

¹Stumpf and Culver (1992) make this argument: “In partisan [judicial] races, the political party label may give most voters all the information they seek.”

²See, for example, Ashworth and Bueno de Mesquita (2008), Padro i Miquel (2007), and Besley et al. (2005). Banerjee and Pande (2007) yields similar kinds of predictions in multi-party environment.

on judicial evaluations. The election data covers state court judges in 40 U.S. states over the period 1990-2010. The judicial evaluation data covers 13 states, but the time frame varies considerably across states and localities.

Table 1: **Selection and Retention Rules for the State Trial Courts**

No. of States	Initial Selection	Re-election	Set of States
9	Partisan Election	Partisan Election	AL, IN, KS, LA, MO NY, TN, TX, WV
22	Non-partisan Election	Non-partisan Election	AR, AZ, CA, FL, GA ID, IN, KY, MD, MI MN, MS, MT, NV NC, ND, OH, OK OR, SD, WA, WI
3	Partisan Election	Retention Election	IL, NM, PA
10	Appointment	Retention Election	AZ, AK, CO, IA, IN, KS, MO, NE, UT, WY
11	Appointment		CT, DE, HI, ME MA NH, NJ, RI, SC, VA, VT

Note 1: The classification is based on the selection and retention rule for the state trial (district) courts of general jurisdiction. Most of the states have the same selection rule for all levels of the state court.

Note 2: The selection systems can be divided into five groups. There are four states (Arizona, Indiana, Kansas, and Missouri) that have a within-state variation of two different systems (partisan or non-partisan election and appointment-retention election) at the district level. These states are included in both categories. For more details, see the website on judicial selection systems by the American Judicature Society (<http://www.judicialselection.us/>). In New Mexico judges are first appointed by the governor, then they must run in a partisan election, and subsequent elections are retention elections. In Maryland judges are either initially appointed by the governor or run in a non-partisan election.

Note 3: We classify a state as having non-partisan elections if party labels do not appear on the general election ballot. In Arizona (in some counties), Maryland, and Ohio, nominations are partisan but the general election ballot is non-partisan.

Our findings are easily summarized. First, we find that voting is highly partisan in partisan judicial elections – i.e., there is a strong correlation between the Democratic “normal vote” and the Democratic vote share for judges – but not in non-partisan or retention elections.³ This partisan voting behavior cannot be attributed to clear differences between

³We are not the first to document this. See Dubois (1980) for an early and thorough analysis, and Squire

Democratic and Republican judges in their sentencing decisions, since such differences, if any, are small and not consistent.

Second, we find that the quality of judicial candidates has relatively little effect on their vote share or probability of winning in partisan elections. By contrast, the quality of judicial candidates has a substantial effect on their vote share and probability of winning in non-partisan elections and in primary elections.⁴ Incumbent judges' quality also has a noticeable effect on their vote share in retention elections, although the magnitude is rarely large enough to affect reelection. It is possible that the presence of opposing candidates and a relatively high degree of competition are necessary in order for information about candidate quality to reach a large share of the electorate.⁵

Note that candidate quality matters even in partisan electoral systems, because the *primary elections* help to eliminate the low-quality candidates.⁶ Partisan general elections do not do much to eliminate weak candidates, except in areas where the distribution of voters across parties is relatively balanced. When one party is favored in an area, competition in the favored party's primary is the key to preventing low-quality candidates from winning office. It is also possible that partisan electoral systems are more competitive than non-partisan elections overall, with more candidates, more contested elections, lower victory margins, and so on. However, we do not find that this is the case.

Finally, the evidence on turnout is consistent with a simple "voting cue" hypothesis. We find that about 94% of the voters who vote on the top office on the ballot also vote on

and Smith (1988) and Klein and Baum (2001) for experimental evidence. All of these studies, like almost all existing work, focus exclusively on appellate level judges.

⁴We are only aware of two previous studies that attempt to estimate the impact of bar association evaluations on voting. Goldstein (1979-1980) studies the 1977 judicial elections in Louisville, Kentucky. Dubois (1984) studies superior court elections in California over the period 1976-1980. Goldstein finds that bar association evaluations have a large impact on voting. Dubois finds a smaller effect, although it is still positive and statistically significant. Moreover, Dubois includes controls for incumbency, campaign spending, and newspaper endorsements in his regressions; since these are correlated with quality, his estimates probably understate the overall "reduced form" effect of quality, which is the quantity of interest to us. Since California and Kentucky use non-partisan elections, these findings are generally consistent with ours.

⁵Dubois (1980) makes this argument: "when judicial elections are highly competitive and controversial, voters demonstrate a remarkable ability to learn about candidates, to correctly match them with their positions [on issues], and to vote accordingly."

⁶Of course, "smoke-filled rooms" or party conventions might also eliminate these candidates. For example, the judicial nominating conventions used in New York do not appear to yield a larger percentage of "unqualified" candidates than the primaries in similar states such as Illinois and Pennsylvania.

judicial elections in partisan elections. However, when party affiliation of judicial candidates is not on the ballot, only about 71% of those who vote on the top office also vote on judicial candidates. In addition, the amount of media coverage affects voter turnout only in non-partisan elections.

2 Data

2.1 Data on Judicial Elections

Table 1 summarizes the various systems for selecting and retaining trial court judges. There are three main systems in which voters play a direct role. First, in 9 states, judges are selected and retained through partisan elections. That is, judicial candidates seek party nomination through primary elections, then candidates from each party compete against each other in the general election, and party affiliations are listed on the general election ballot.⁷ Second, in 22 states, judges are selected through non-partisan elections. These are two-round systems. First, all judicial candidates run for elections without party labels on the ballot. Then, if no candidate wins a majority of the votes in the first round, the top two candidates compete in a runoff race. In almost all states, the first round elections are held at the time the state holds its primary elections, and the runoff elections are held at the time of the general election in the state.⁸ Third, in 10 states judges are first appointed by the governor and then must face the voters at the end of each term in retention elections. These are elections with no opponents. Instead, voters choose whether or not to retain the judge (“yes” or “no”), and the judge continues in office if he or she receives a majority of “yes” votes.⁹

Tables 2 and 3 show summary statistics on the electoral data we have collected. The

⁷In New York candidates are nominated by party conventions rather than primaries. The *New York Times* argued that “These conventions are dominated by delegates handpicked by party bosses, who vote however the bosses tell them.” In a similar vein, the *New York Sun* wrote: “The party conventions, which meet across the state in September for the sole purpose of nominating judicial candidates to the state Supreme Court, are unique to New York. They have long been criticized as a shame because they often feature little debate and evaluation of the candidates, with the delegates present often bestowing the party nomination to the candidates favored by the local party boss.”

⁸In most of states that have non-partisan elections, there is no nomination of candidates from political parties. In Ohio, candidates are nominated in partisan primaries, but the party labels do not appear on the ballot in the general election. Michigan also has a similar process for the election of state supreme court

Table 2: Distribution of Election Data

State	Main Selection System	Number of Observations by Level and Election Period							Period
		Supreme		Appellate		Trial		Total	
		Primary	General	Primary	General	Primary	General		
AK	Appt + Ret	0	3	0	2	0	106	111	1990-2010
AL	Partisan	18	50	68	51	304	623	1114	1992-2010
AR	Non-partisan	25	14	32	7	192	46	316	1992-2010
AZ	Non-partisan	0	18	0	69	67	196	350	1990-2008
CA	Non-partisan	0	18	0	227	895	234	1374	1990-2010
CO	Appt + Ret	0	13	0	33	0	336	382	1996-2010
FL	Non-partisan	0	39	0	321	1144	262	2990	1978-2010
GA	Non-partisan	17	19	34	43	655	670	1438	1996-2010
IA	Appt + Ret	0	19	0	28	0	661	708	1990-2010
ID	Non-partisan	26	2	11	0	168	8	215	1990-2010
IL	Part + Ret	44	28	216	135	2258	2166	4847	1990-2010
IN	Partisan	0	5	0	17	671	602	1295	2002-2010
KS	Mixed	0	28	0	62	668	1195	1953	1982-2010
KY	Appt + Ret	3	21	12	50	78	433	597	1999-2010
LA	Partisan	32	7	139	13	1078	143	1412	1996-2010
MD	Non-partisan	0	12	0	35	251	588	886	1990-2008
MI	Non-partisan	0	61	50	131	309	886	1437	1992-2010
MN	Non-partisan	10	24	0	44	68	639	785	2000-2010
MO	Partisan	0	9	0	52	250	548	859	1996-2010
MS	Non-partisan	24	39	0	40	0	136	239	1986-2000
MT	Non-partisan	31	32	0	0	215	179	457	1992-2010
NC	Non-partisan	13	32	36	58	56	260	455	1998-2008
ND	Non-partisan	17	17	0	0	222	192	448	1990-2010
NE	Appt + Ret	0	24	0	18	0	175	217	1990-2010
NM	Part + Ret	0	16	10	30	62	336	454	1996-2010
NV	Non-partisan	22	29	0	0	196	160	407	1998-2010
NY	Partisan	0	0	0	0	0	1135	1135	1990-2008
OH	Non-partisan	55	49	434	340	1753	1526	4157	1990-2008
OK	Non-partisan	0	34	0	65	576	362	1037	1990-2008
OR	Non-partisan	37	10	37	15	696	193	988	1990-2010
PA	Part + Ret	10	12	32	32	382	179	647	2001-2007
SD	Non-partisan	0	9	0	0	24	107	140	1990-2006
TN	Partisan	0	4	0	31	0	239	274	2000-2010
TX	Partisan	94	86	668	495	3224	2434	7001	1992-2010
UT	Appt + Ret	0	10	0	26	0	229	265	1990-2010
WA	Non-partisan	148	85	93	87	432	229	1074	1970-2010
WI	Non-partisan	18	28	9	72	474	1041	1642	1988-2010
WY	Appt + Ret	0	10	0	0	0	56	66	1996-2010
Total		644	916	1881	2629	17368	19442	44104	

Note: When a state has primary-runoffs (general-runoffs), we count them as primaries (general elections) in this table. Since primary-runoffs and general-runoffs are rare, this classification does not affect the picture of our data in a meaningful way. There are states with variation across different levels of courts. In the case of such variation, we put the main selection system for the state trial courts. “Appt + Retention” refers to states with appointment and retention systems. “Part + Ret” refers to states with partisan elections followed by retention elections. “Mixed” refers to a case of within-state, cross-district variation. The total number for Florida includes 1224 observations of unopposed candidate-races that are not classified as primary or general elections.

data contains results for judicial elections in 38 states, for all three levels of state courts – supreme courts, appellate courts, and trial (district) courts.^{10,11} Table 2 shows the number of candidate-race observations and the data period for each state. The data period varies somewhat across states, but it covers the past two decades (1990-2010) for many states.

The second and the third columns of Table 3 present summary statistics on contestation and competition in partisan primaries and partisan general elections, respectively. They show two important features. First, partisan judicial elections exhibit a moderate, but non-negligible degree of competition in terms of the frequency of challenges. Among 7674 primary races, 2026 races (26.4 %) are contested. Similarly, among 5372 general election races, 1663 races (31 %) are contested. However, the winners’ vote share shows that challenges may not result in close elections frequently. On average, the vote share of winners in contested general elections is 57 percent.

Table 3: **Summary Statistics of Partisan and Non-Partisan Elections**

		Partisan Elections		Non-Partisan Elections	
		Primary	General	1st Round	2nd Round
No. of States		16	16	22	22
No. of Seats up for Election		6888	6888	10189	10189
Total No. of Races		7674	5372	10189	1856
No. of Uncontested Races		5648	3709	7427	923
No. of Contested Races		2026	1663	2757	933
No. of Candidates in Contested Elections	Mean	2.8	2.0	2.6	2.0
	S.D.	1.4	0.2	1.0	0.1
Winners’ Vote Share in Contested Elections	Mean	.520	.570	.562	.565
	S.D.	.146	.071	.107	.066

The fourth and fifth columns of Table 3 present summary statistics on contestation and competition in non-partisan first-round and runoff elections, respectively. Perhaps surpris-

judges.
⁹In Illinois a judge must receive a “yes” vote of 60% to be retained, and in New Mexico (after 1994) a judge must receive a “yes” vote of 57%.

¹⁰When a state has multiple trial courts, we include only “general jurisdiction” trial courts – these are the courts that handle general civil and felony crime cases. We exclude “limited jurisdiction” courts that are restricted to handling minor civil cases, misdemeanors, and traffic cases.

¹¹The source varies by state. For the most recent years we collected it directly from state websites – the Secretary of State or chief state election official, or state elections board. For earlier years we received copies of official election results from the relevant state official.

ingly, these elections exhibit levels of competition similar to those of partisan elections, in terms of the frequency of challenges and the overall distribution of winners’ vote shares. The lack of a substantial difference between the partisan and non-partisan elections suggests the influence of party on election outcomes, if any, is more likely to take place through channels other than affecting the degree of competition.

Table 4: **Statistics of Retention Elections**

No. of States	20
No. of Elections	5405
Share of Yes-Votes	
Mean	0.739
Std. Dev.	0.068
Minimum	0.326
10th percentile	0.646
Median	0.747
90th percentile	0.820
Maximum	0.916

Table 4 presents summary statistics on retention elections. Evidently, judges running in retention elections are much safer than those who face competitive elections, either partisan or non-partisan. The mean share of “yes” votes across states is 73.9 percent, and the standard deviation is 6.8 percentage points. Even the 10th percentile of the share of “yes” vote is around or above 65 percent in most of states, showing that almost all incumbents are extremely safe in retention elections. In our sample, only 34 judges lost their retention election.

2.2 Data on Judicial Evaluations

Table 5 presents summary information on the judicial evaluations we have collected. In six states – Alaska, Arizona, Colorado, Kansas, New Mexico, and Utah – these evaluations are conducted by state commissions.¹² The evaluations for other states are conducted by state or local bar associations, or by groups of bar associations. Local bar associations typically

¹²A number of states have recently established similar commissions or pilot programs. See <http://www.ncsc.org/topics/judicial-officers/judicial-performance-evaluation/state-links.aspx> for details.

Table 5: **Summary of Judicial Evaluations Data**

State	Type	Name of Evaluating Body	Period	Number
AK	State	Alaska Judicial Council	1996-2010	152
AZ	State	Arizona Commiss. on Judicial Performance Review	2000-2010	384
CA	Bar	Los Angeles County Bar Association	1996-2010	216
CA	Bar	Orange County Bar Association	1996-2010	56
CA	Bar	San Diego County Bar Association	1998-2010	48
CA	Bar	San Francisco County Bar Association	2008-2010	14
CO	State	Colorado Commiss. on Judicial Performance	1996-2010	371
FL	Bar	Dade County Bar Association	2001-2010	487
IL	Bar	Illinois State Bar Association	1982-2010	4126
IL	Bar	Chicago Bar Association	1986-2010	1342
IL	Bar	Chicago Council of Lawyers	1986-2010	2252
IL	Bar	Cook County Bar Association	1986-2010	1846
IL	Bar	Alliance of Bar Assn for Judicial Screening (Cook)	2004-2010	769
IA	Bar	Iowa State Bar Association	1990-2008	729
KS	State	Kansas Commission on Judicial Performance	2008-2010	127
KY	Bar	Louisville Bar Association	2003-2010	98
MI	Bar	Detroit Metropolitan Bar Association	1992-2010	285
MO	Bar	Missouri Bar Association	2002-2006	156
NE	Bar	Nebraska State Bar Association	2002-2010	694
NM	State	New Mexico Judicial Performance Eval. Commiss.	2002-2010	194
NV	News	Las Vegas Review Journal	2000-2011	408
NY	Bar	New York City Bar Association	1997-2010	322
OH	Bar	Judicial Candidates Rating Coalition (Cleveland)	2002-2010	218
OH	Bar	Columbus Bar Association	1993-2010	625
PA	Bar	Philadelphia Bar Association	1991-2009	502
PA	Bar	Allegheny County Bar Association	2001-2009	168
TX	Bar	Houston Bar Association	1992-2010	1214
TX	Bar	Dallas Bar Association	1989-2011	1681
UT	State	Utah Judicial Council	-	
WA	Bar	Seattle-King County Bar Association	1990-2010	260
WY	Bar	Wyoming State Bar Association	1998-2010	87

only evaluate the local trial court candidates. In all cases these evaluations are based on comprehensive surveys of attorneys. In some cases they also incorporate surveys of other judges, court employees, and citizens who have served as jurors or witnesses. For consistency we focus on the attorney surveys.

The surveys ask for the respondents' views on a variety of performance criteria, including integrity, judicial temperament, knowledge of the law, communication skills, diligence, professional competence, and case management. Here are the items from the Colorado Commission on Judicial Performance survey:

1. Case Management:
 - 1a. Promptly issuing a decision on the case after trial.
 - 1b. Maintaining appropriate control over proceedings.
 - 1c. Promptly ruling on pre-trial motions.
 - 1d. Setting reasonable schedules for cases.
2. Application and Knowledge of Law:
 - 2a. Being able to identify and analyze relevant facts.
 - 2b. Basing decisions on evidence and arguments.
 - 2c. Willing to reconsider error in fact or law.
 - 2d. Issuing consistent sentences when the circumstances are similar.
3. Communications:
 - 3a. Making sure all participants understand the proceedings.
 - 3b. Providing written communications that are clear, thorough and well reasoned.
4. Demeanor:
 - 4a. Giving proceedings a sense of dignity.
 - 4b. Treating parties with respect.
 - 4c. Conducting his/her courtroom in a neutral manner.
 - 4d. Consistently applying laws and rules.
5. Diligence:
 - 5a. Using good judgment in application of relevant law and rules.
 - 5b. Doing the necessary homework and being prepared for his/her cases.
 - 5c. Being willing to handle cases on the docket even when they are complicated and time consuming.

Although the surveys address the same general performance criteria, the details – the number of items, question wording, response categories, and so on – vary widely across states and bar associations. There is also considerable amount variation in how the surveys and other information are aggregated into summary evaluations. In most cases there is a bottom-line evaluation such as Well Qualified, Qualified, or Unqualified, Highly Recommended, Recommended, or Not Recommended, or (for retention elections) Retain or Do Not Retain. Other categories exist, including Outstanding, Strongly Recommended, Strongly Not Recommended, Adequate, Not Rated, and No Opinion. As a result, comparing across states requires considerable care.

To simplify our analysis we collapse the various categories into a dichotomous variable, which we call *Score*. We set *Score*=1 for all candidates with evaluations of Qualified or better, Recommended or better, or Retain, and *Score*=0 for candidates with evaluations of Not Qualified or worse, Not Recommended or worse, or Do Not Retain.¹³

State commissions and bar associations claim that one of the main reasons they evaluate judges and judicial candidates is to inform voters. The surveys conducted during the months preceding elections and the evaluations are released within a few weeks of election day. The evaluations also tend to receive a non-trivial amount of newspaper coverage when they are released. As usual, bad news is good news when it comes to generating eye-catching headlines: “Lawyers Rank 9 Judges ‘Unqualified’,” “Lawyers Rate PA Judge Unfit,” “Bar Association Rates Two Judicial Candidates as Unqualified,” and “Democrat Gets Negative Rating from Bar in County Court Race” are probably the types of headlines favored by editors. Sometimes, however, good news prevails: “Bar Group Rates Court Candidates – 6 in Appellate Race Given Top Marks.”¹⁴

Although the survey items are not explicitly ideological or partisan, it is possible that the responses and resulting evaluations exhibit an ideological or partisan bias. Many conservative

¹³The Houston Bar Association does not provide a categorical bottom-line evaluation. Instead, for each candidate they report the fraction of respondents who rate the candidate Well Qualified, Qualified, or Not Qualified. We set *Score*=1 if more than half of the respondents gave a candidate a rating of Well Qualified or Qualified, and *Score*=0 otherwise.

¹⁴In order, these headlines are from: *Chicago Tribune*, October 12, 1988; *Philadelphia Inquirer*, May 14, 2010; *Ventura County Star*; October 19, 1993; *Syracuse Post-Standard*, October 0, 2009; *Chicago Tribune*, March 2, 1990.

commentators argue that lawyers in general and bar associations in particular are liberal relative to the overall population. Thus, we might worry that evaluations are correlated with judges’ ideologies or party affiliations. Even if they are not, voters might believe they are, and use them accordingly.

We check whether the evaluations from bar associations and state commissions appear to signal the ideological positions of candidates rather than quality, but find no consistent evidence for this. First, the correlation between evaluations and party affiliation of judges is small (see appendix Table A.6). Second, the correlation between judicial evaluations and the normal vote across precincts is also small – i.e., it is not that case that judges with higher evaluations receive a larger share of votes in Democratic precincts than in Republican precincts.

3 Findings

3.1 Partisan Voting in Partisan, Non-Partisan, and Retention Elections

We begin with an analysis of precinct-level data for a few states. For each precinct and year, we construct a “normal vote” measure by averaging the Democratic percentage of the two-party vote across all of the available federal and state partisan elections – president, U.S. senator, U.S. house, governor, state senator, state house representative, and various down-ballot offices such as state attorney general, secretary of state, and state treasurer. We call this the *Democratic Normal Vote*. We then collect the percentage of the two-party vote won by the Democratic candidate in each of the available contested judicial elections, and call this *Democratic Vote for Judge*. For each judicial election, we then correlate the *Vote for Judge* against the *Democratic Normal Vote*.

Table 6 shows the results. The patterns are clear: Voting is highly partisan in partisan elections, and much less partisan in non-partisan elections and retention elections. For example, in Texas the average correlation between *Democratic Vote for Judge* and *Democratic Normal Vote* is 0.99, and in Pennsylvania the average correlation is 0.91. In North Carolina partisan elections the correlation is 0.93. In North Carolina non-partisan elections, on the

other hand, the correlation is only 0.28. In non-partisan elections in Arkansas, California, Idaho, and Washington state the correlations are also small, and these probably overstate the true relationship because we assign partisanship to the judicial candidates to maximize the correlation. In Arizona and Colorado retention elections the correlations are also low.

Table 6: **Estimates of Partisan Voting Using Precinct Level Data**

State	Area	Election Type	Court Type	Party Determination	N	Avg Corr
IL	Cook County	Partisan	trial	on ballot	8	0.91
NC	State	Partisan	trial	on ballot	49	0.93
NC	State	Partisan	appellate	on ballot	20	0.97
PA	Philadelphia County	Partisan	trial	on ballot	11	0.88
PA	Philadelphia County	Partisan	appellate	on ballot	7	0.94
TX	State	Partisan	trial	on ballot	61	0.99
TX	State	Partisan	appellate	on ballot	32	0.99
OH	Hamilton County	Nonpartisan	trial	partisan primary	16	0.89
OH	Hamilton County	Nonpartisan	appellate	partisan primary	19	0.92
AR	State	Nonpartisan	trial	maximum possible	27	0.31
CA	San Diego County	Nonpartisan	trial	maximum possible	12	0.45
ID	State	Nonpartisan	trial	maximum possible	3	0.33
NC	State	Nonpartisan	trial	previous election	151	0.28
NC	State	Nonpartisan	trial	maximum possible	151	0.55
WA	King County	Nonpartisan	trial	maximum possible	16	0.45
AZ	Maricopa County	Retention, D	trial	appointing governor	74	0.17
AZ	Maricopa County	Retention, R	trial	appointing governor	126	0.06
AZ	Maricopa County	Retention, D	trial	registration/groups	30	0.40
AZ	Maricopa County	Retention, R	trial	registration/groups	16	0.02
CA	San Diego County	Retention, D	appellate	appointing governor	9	0.53
CA	San Diego County	Retention, R	appellate	appointing governor	14	0.26
CO	State	Retention, D	appellate	appointing governor	7	0.17
IL	Cook County	Retention, D	trial	1st election	110	0.37
IL	Cook County	Retention, R	trial	1st election	18	0.28
IL	Logan County	Retention, R	trial	1st election	8	-0.23

In Illinois partisan elections the correlation is 0.91, while for Democratic incumbents in retention elections the correlation is just 0.37, and for Republicans incumbents in retention the correlation is 0.28. Note that the correlation is positive for Republican incumbents – i.e., Republican incumbents receive a larger percentage of “yes” votes in Democratic precincts

than they do in Republican precincts – which is the opposite of what we expect under partisan voting. Recall that these are the *same* candidates running first in partisan elections and then later in retention elections.¹⁵

Note that in Ohio, with partisan primaries but no party labels on the ballot, the correlation in trial court races is 0.89.

We have county-level data for many other states. Although these analyses are cruder, they show the same basic patterns. In particular, the correlation between *Democratic Vote for Judge* and *Democratic Normal Vote* is much higher in partisan elections than in non-partisan or retention elections. In retention elections the correlations are also low.

3.2 Candidate Quality and Voting in Partisan, Non-Partisan, and Retention Elections

Tables 7-15 present results on the relationship between judicial evaluations and election results in the various types of elections. Tables 7 and 8 covers Illinois, which has partisan general elections, primary elections, and retention elections. Tables 9 and 10 cover Texas, which has partisan general elections and primary elections. Tables 11 and 12 cover California and Washington, which have non-partisan elections. Tables 13 and 14 cover Ohio, which has partisan primary elections and non-partisan general elections, and sometimes called “semi-partisan.” Table 15 covers several states with retention elections.

Tables 7, 9, and 11 show aggregate summary statistics on win percentages. Each observation is a candidate, and all elections – are included. The cell entries are means, with the associated number of observations in parentheses. These tables show that for all types of elections candidates with *Score*=1 are much more likely to win than candidates with *Score*=0. Overall, candidates who are judged to be Unqualified, Not Recommended, etc. rarely win office. In fact, such candidates constitute only 5.9 percent of the final winners for all of the candidates for which we have evaluations.

This appears to be moderately good news for democracy – at a minimum, the electoral process seems to be weeding out most of the least qualified candidates. However, there are

¹⁵Using county-level data for the whole state, the correlation between *Democratic Vote for Judge* and *Democratic Normal Vote* is 0.71 in the partisan elections. For retention elections, the correlations are much smaller in absolute terms: 0.08 for Democratic judges and -0.29 for Republican judges.

Table 7: **Win Percentage by Bar Association Score in Illinois**

Election Type	Score=0	Score=1
Partisan General	47.5 (99)	76.6 (662)
Primary	28.7 (331)	59.1 (1099)
Retention	73.2 (41)	99.9 (1109)

Note: All candidates with Bar Association scores are shown.
0=Not Recommended, 1=Recommended.

a variety of possible reasons for this. One possibility, of course, is that voters learn the candidates’ relative evaluations and vote accordingly. But it would not be surprising if other factors played an even more important role, including strategic entry (low-quality candidates are opposed more often), incumbency advantage (incumbents tend to receive higher evaluations but they might also enjoy other electoral advantages as incumbents), campaigning and media coverage (high-quality candidates might raise more money and receive favorable coverage as well as endorsements), and so on.

Tables 8, 10, and 12 carry the analysis a bit further. In these tables we restrict attention to contested races in which the top two candidates received more than 90% of the vote.¹⁶ We then make one observation for each race. For partisan general elections the results are presented from the point of view of the Democratic candidate. For primary elections and non-partisan elections the results are presented from the point of view of the candidate whose name is first in alphabetic order. We call this candidate the “Alpha candidate.” The cell entries are again means, with the associated number of observations in parentheses.

These tables show a clear pattern. In the Partisan General elections in Illinois and Texas (row 1 of Table 8 and Table 10), the Democratic candidate is more likely to win if he or she has a higher evaluation than the Republican candidate, and he or she also receives a larger share of the votes. However, the differences are not huge. For example, moving

¹⁶Also, in the case of partisan general elections there must be one candidate from each of the major parties.

Table 8: **Election Outcomes by Bar Association Score in Illinois**

	Win Percentage				Vote Percentage			
	Relative Bar Association Score				Relative Bar Association Score			
Election Type	-1	0	+1	Diff	-1	0	+1	Diff
Partisan General	34.3 (35)	60.0 (130)	70.6 (34)	18.2	48.5 (35)	53.2 (129)	56.4 (34)	4.0
Primary	19.4 (36)	53.0 (66)	88.2 (34)	34.4	39.7 (36)	50.5 (65)	58.9 (34)	9.6
Retention	–	73.2 (41)	99.9 (1109)	26.7	–	66.1 (41)	77.5 (1109)	11.4

Note: In the Partisan General and Primary panels, the Bar Association scores are as follows: -1 = candidate is Not Recommended and opponent is Recommended, 0 = both candidates are Recommended or both are Not Recommended, +1 = candidate is Recommended but opponent is Not Recommended. The Difference column shows $[\bar{V}(+1) - \bar{V}(-1)]/2$. Only contested races where the top two candidates received over 90% of the vote are included.

In the Retention panels, the Bar Association scores are as follows: 0 = incumbent is Not Recommended, +1 = incumbent is Recommended. The Difference column shows $[\bar{V}(+1) - \bar{V}(0)]$.

from the average case where the candidates have the same evaluation – so the net difference in *Score* is 0 – to the average case where the Democrat has a higher evaluation – so the net difference in *Score* is +1 – the Democratic candidate’s probability of winning increases by 10.6 percentage points in Illinois and 4.4 percentage points in Texas. The Democratic candidate’s vote percentage increases by 3.2 percentage points in Illinois and 1.8 percentage points in Texas.

By comparison, the differences are much larger in the two-candidate primary elections. Moving from the average case with a net difference in *Score* of 0 to the average case where the Alpha candidate has a higher evaluation – so the net difference in *Score* is +1 – the Alpha candidate’s probability of winning increases by 35.2 percentage points in Illinois and 38.7 percentage points in Texas. The Alpha candidate’s vote percentage increases by 8.4 percentage points in Illinois and 11.5 percentage points in Texas.

The differences are similarly large in the non-partisan elections (primary or general) in California and Washington. Moving from the average case with a net difference in *Score*

Table 9: **Win Percentage by Bar Association Score in Texas**

Election Type	Score=0	Score=1
Partisan General	32.5 (77)	56.6 (396)
Primary	43.4 (196)	75.3 (519)

Note: All candidates with Bar Association scores are shown.
0=Not Recommended, 1=Recommended.

Table 10: **Election Outcomes by Bar Association Score in Texas**

	Win Percentage				Vote Percentage			
	Relative Bar Association Score				Relative Bar Association Score			
Election Type	-1	0	+1	Diff	-1	0	+1	Diff
Partisan General	9.8 (51)	17.3 (150)	21.7 (23)	6.0	44.8 (51)	45.8 (150)	47.6 (23)	1.4
Primary	27.3 (22)	44.2 (43)	82.9 (35)	27.8	42.2 (22)	49.5 (43)	61.0 (35)	9.4

Note: The Bar Association scores are as follows: -1 = candidate is Not Recommended and opponent is Recommended, 0 = both candidates are Recommended or both are Not Recommended, +1 = candidate is Recommended but opponent is Not Recommended. The Difference column shows $[\bar{V}(+1) - \bar{V}(-1)]/2$. Only contested races where the top two candidates received over 90% of the vote are included.

of 0 to the average case where the Alpha candidate has a higher evaluation – so the net difference in *Score* is +1 – the Alpha candidate’s probably of winning increases by 36.9 percentage points, and the Alpha candidate’s vote percentage increases by 13.7 percentage points.

In Ohio we know each candidate’s party since they run in partisan primaries, but party is not printed on the general election ballots. The general election results in Table 14 are much closer to those for the “pure” non-partisan cases of California and Washington than the partisan cases of Illinois and Texas, especially in terms of the probability of winning.¹⁷

¹⁷The vast majority of primaries are uncontested, so we cannot conduct a separate analysis of contested primaries. This is also reflected in Table 13, which shows that over 80% of primary candidates win, almost regardless of their evaluations.

Table 11: **Win Percentage by Bar Association Score in California and Washington**

Election Type	Score=0	Score=1
General	19.0 (21)	66.9 (121)
Primary	24.8 (101)	57.6 (302)
Total	23.8 (122)	60.3 (423)

Note: All candidates with Bar Association scores are shown.
0=Not Recommended, 1=Recommended.

Table 12: **Election Outcomes by Bar Association Score in California and Washington**

	Win Percentage				Vote Percentage			
	Relative Bar Association Score				Relative Bar Association Score			
Election Type	-1	0	+1	Diff	-1	0	+1	Diff
All	7.1 (28)	44.9 (69)	81.8 (22)	37.3	39.0 (27)	48.8 (68)	62.5 (22)	11.7

Note: The Relative Bar Association scores are as follows: -1 = candidate is Not Recommended and opponent is Recommended, 0 = both candidates are Recommended or both are Not Recommended, +1 = candidate is Recommended but opponent is Not Recommended. The Difference column shows $[\bar{V}(+1) - \bar{V}(-1)]/2$. Only contested races where the top two candidates received over 90% of the vote are included.

In terms of vote percentage, the effects are similarly large in retention elections. On average, incumbent judges in Illinois with $Score = 1$ receive a vote percentage that is 11.4 percentage points higher than incumbent judges with $Score = 0$. Table 15 shows results for retention elections in states with commissions. Again, there are large differences in vote percentage between judges with $Score = 1$ and those with $Score = 0$. The results for winning percentage are more mixed. In Illinois, the difference is larger than for partisan elections but smaller than for primaries. However, for the states with commissions the differences can be quite large. While very few judges receive a Do Not Retain recommendation, those who do are more likely to lose than win.

Table 13: **Win Percentage by Bar Assoc Score in Ohio**

Election Type	Score=0	Score=1
Non-Partisan General	28.6 (28)	73.6 (159)
Primary	81.2 (16)	89.4 (104)

Note: All candidates with Bar Association scores are shown.
0=Not Recommended, 1=Recommended.

Table 14: **Election Outcomes by Bar Association Score in Ohio**

	Win Percentage				Vote Percentage			
	Relative Bar Association Score				Relative Bar Association Score			
Election Type	-1	0	+1	Diff	-1	0	+1	Diff
Non-Partisan General	12.5 (8)	67.6 (34)	83.3 (12)	35.4	44.4 (8)	54.4 (34)	59.7 (12)	7.6

Note: The Bar Association scores are as follows: -1 = candidate is Not Recommended and opponent is Recommended, 0 = both candidates are Recommended or both are Not Recommended, +1 = candidate is Recommended but opponent is Not Recommended. The Difference column shows $[\bar{V}(+1) - \bar{V}(-1)]/2$. Only contested races where the top two candidates received over 90% of the vote are included.

Note that we have ignored incumbency. That is, the findings in Tables 8, 10 and 12 combine the effects of *Score* with the effects of incumbency. However, although *Score* and incumbency are positively correlated, when we control for incumbency the large differences between the partisan and non-partisan cases are essentially unchanged. This is in part due to the fact that the incumbency advantage in trial court elections, while positive, does not appear to be very large.¹⁸ The results for Illinois are indicative, since in these cases incumbency is held fixed – all retention elections involve incumbents, and all of the partisan primary and general elections are to fill vacancies.

Other cases exhibit similar patterns. New York has partisan general elections for judges, and nominations are made by party conventions. In New York City between 1999 and 2010, there were 160 Democratic candidates and 56 Republicans with New York City Bar Associa-

¹⁸This is conditional on having two candidates in the race. A large proportion of incumbents are not opposed either in the primary or the general election.

tion (NYCBA) evaluations.¹⁹ Among the Democratic candidates, 150 were Approved by the NYCBA (*Score*=1), 9 were Not Approved (*Score*=0), and 1 was Not Evaluated (dropped). All of the Democrats won election. Most likely, this is because judicial elections in New York are partisan and voters in New York City overwhelmingly identify with the Democratic party. New York has multi-seat races, so we can run regressions with race-specific fixed effects and thus compare candidates with different evaluations running at the same time for the same offices. After controlling for party affiliation (and race-specific fixed effects), the NYCBA evaluations appear to have essentially no effect on voting. The estimated coefficient on *Score* is 0.81 with a standard error of 1.02, implying that an Approved evaluation increases a candidate’s expected vote share by less than 1 percentage point.²⁰ Since the typical Democrat won with a margin of about 15.5 percentage points, it is unlikely that the evaluations affect who wins and who loses.

The situation is similar in Pennsylvania, which also has partisan general elections, as well as partisan primaries. We have evaluations for 88 Democratic candidates and 24 Republicans who ran in a general election (not for retention) in Philadelphia or Allegheny counties – about half from the Philadelphia Bar Association and half from the Allegheny County Bar Association.²¹ Among the Democratic candidates, 73 were Recommended and 15 were Not Recommended or Unqualified. All but one of the Democrats won election. Again, this outcome is likely due to the fact that Pennsylvania has partisan judicial elections, and Philadelphia and Pittsburgh are both heavily Democratic cities. Pennsylvania has multi-seat races, so we can run regressions with race-specific fixed effects and thus compare candidates with different evaluations running at the same time for the same offices. After controlling for party affiliation (and race-specific fixed effects), the bar evaluations appear to have essentially no effect on voting. The estimated coefficient on *Score* is -0.39 with a standard error of 0.56, implying that a Recommended evaluation decreases a candidate’s expected vote share by

¹⁹Because candidates in New York may be nominated by more than one party, 91 of the Democrats were also nominated by the Republican party.

²⁰The number of votes available per voter varies across races, depending on how many positions are filled. We therefore also analyzed “normalize” vote-shares, where the vote-shares are multiplied by the number of votes per voter. The results are qualitatively similar to those for the raw vote-shares. In particular, the estimated coefficient on *Score* is not statistically significant or substantively large.

²¹As in New York, candidates in Pennsylvania may be nominated by more than one party, so 62 of the Democrats were also nominated by the Republican party.

less than one-half of one percentage point.²² Thus, it is again unlikely that the evaluations ever affect who wins.

Fortunately, most of the lower-quality candidates in Philadelphia and Allegheny counties are eliminated in the primary elections – or at least in the Democratic primary, which is what matters. There were 53 candidates with $Score = 0$ running in Democratic primaries in our sample (we do not yet have primary election information for all years). Of these, only 11, or 20.8%, won a Democratic nomination and went on to the general election.

Table 15: **Other States, Retention Elections**

Election Outcomes by State Commission Score						
	Win Percentage			Vote Percentage		
	Relative Score			Relative Score		
State	0	+1	Diff	0	+1	Diff
Arizona	100.0 (3)	100.0 (370)	0.0	57.8 (3)	73.1 (370)	15.3
Colorado	33.3 (3)	99.2 (367)	65.9	51.0 (3)	71.3 (367)	20.3
New Mexico	33.3 (6)	100.0 (180)	66.7	46.4 (6)	76.7 (180)	31.5

Note: The scores are as follows: 0 = incumbent is Not Recommended, +1 = incumbent is Recommended. The Difference column shows $[\overline{V}(+1) - \overline{V}(0)]$.

3.3 Partisanship and Sentencing

Next, we ask whether there are any clear partisan differences in the sentencing decisions of Democratic and Republican judges. This would provide a clear rationale for the partisan patterns exhibited in the voting data. In fact, however, we find few systematic differences in sentencing that are correlated with partisanship.

We employ criminal sentencing decisions from the National Judicial Reporting Program

²²As in New York, the number of votes available per voter varies across races, depending on how many positions are filled. We therefore also analyzed “normalize” vote-shares. Again, the results are qualitatively similar to those for the raw vote-shares.

(NJRP). This database only reports information about the judicial district where each case was heard, not the individual judge hearing the case. However, for a large number of districts we can construct a measure of the overall partisan composition – the fraction of judges in the district who are Democrats – in each year. We can then investigate whether the sentences tend to be relatively harsher in districts with a smaller or larger fraction of Democratic judges.

Table 16 shows the results for Illinois, Texas and Ohio – these are the states for which we can measure the partisan composition of the district for a large number of cases. We use the NJRP data for the period of 1990-2006. The NJRP data contains detailed case-level information such as the nature and number of convictions, offense category, sentence length, and penal code citation. We analyze the relationship between the county-level share of Democratic judges and sentencing harshness for four different offense categories: violent crimes, property crimes, drug crimes, and other crimes. To minimize measurement error in sentencing harshness caused by heterogeneity of cases, we compare criminal cases only with other cases in the same year and with the same penal code citation. In order to classify cases, we generate penal code variable that takes the same value for all crimes in each year that has the same penal code citation for the 1st, 2nd, and 3rd most serious offenses. Then, for each category, we collect minimum and maximum sentence given for that penal code. The dependent variable we use, normalized harshness of sentencing is defined as follows:

$$Relative\ Harshness = \frac{Sentence - min}{max - min}.$$

The independent variable of interest is *Share of Democratic Judges*. A positive coefficient on this variable implies that Democratic judges cast harsher sentences than Republican judges, and a negative coefficient implies the opposite.

The result of the regressions show a mixed pattern. First, half of the point estimates are positive and half are negative. In Illinois the point estimates are all tiny, and none approaches statistical significance. Three coefficients are statistically significant at least at the .10 level. These three suggest that Democratic judges are more lenient than Republican judges in drug cases and property cases in Texas, but more harsh in drug cases in Ohio.

Violent crimes constitute most of the “high-profile” cases that draw the attention of the

Table 16: **Partisanship and Sentencing**

Dependent Variable: Relative Harshness of Sentence Independent Variable: Share of Democratic Judges				
Offense Category	Parameter Estimate	Std Error	N	R^2
Illinois				
Violent	0.041	0.043	16900	0.28
Property	0.002	0.016	31093	0.35
Drug	0.003	0.021	77094	0.42
Other	-0.034	0.036	29817	0.31
Texas				
Violent	.023	.096	24207	0.33
Property	-.143*	.073	37927	0.40
Drug	-.122***	.044	51268	0.44
Other	-.009	.079	22510	0.44
Ohio				
Violent	-0.190	0.358	1026	0.27
Property	0.070	0.368	1280	0.24
Drug	0.594***	0.188	1399	0.25
Other	-0.467	0.389	983	0.23

Note: Coefficient estimates are from four separate regressions. Control variables are: demographic composition of the population (race, gender, ethnicity, age), income, education, and crime rates. * and *** mean the coefficient estimate being statistically significant at 10% and 1%-levels, respectively.

public, so this category is probably the most important from the point of view of voting. For these cases there is essentially no difference between Democratic and Republican judges in Illinois and Texas. In Ohio the coefficient is negative but statistically insignificant.

Overall, the results suggest that the partisan voting behavior documented above cannot be attributed to voters responding to large and systematic partisan differences in the actual pattern of sentencing decisions.

Table 17: Relative Turnout Rate by Types of Elections

average turnout rate (relative to the top of the ticket)	
partisan contested (race has both Dem and Repub)	93.9%
partisan uncontested (race is missing Dem or Repub)	65.8%
nonpartisan, held in November	70.1%
nonpartisan, not held in November (WI only)	37.5%
retention	71.8 %

3.4 Turnout

In this subsection, we document the variation in voter turnout across election systems. Specifically, we focus on the *relative* turnout, which is defined as follows: *Relative turnout* = number of votes cast on judicial elections / maximum number of votes cast on major elections (presidential, gubernatorial, U.S. house and U.S. Senate) on the same ballot.

The *relative* turnout, as opposed to the absolute turnout (the number of voters who cast a vote as a proportion of eligible voters), helps us to make an inference about the amount of information that voters have about judicial elections, for the following reason. A typical voter decides whether to go to the voting booth or not, by comparing the cost of voting and the benefit from voting on their preferred candidates in *major elections*.²³ Once a voter goes to the voting booth to vote in major elections, the additional cost of voting on other offices is negligible. Hence, the decision to vote in down-ballot elections, such judicial elections, on the same ballot is determined by how confident a voter is about his vote in those elections.²⁴ Therefore, focusing on the relative turnout allows us to focus on the *information*, as opposed to the cost of going to the voting booth, in the decision to vote in judicial elections.

The statistics on turnout, documented in Table 17, show a substantial difference between partisan and non-partisan elections in the turnout rate. It shows that there is very little roll-off, i.e., abstention in judicial elections by voters who voted in major elections, in contested partisan elections. 93.9% of the voters who vote in major elections also vote in judicial

²³The benefit from voting can be non-negligible if voters take into account the welfare of a large group of citizens who share his political preference, as in the model by Coate and Conlin (2004).

²⁴In the literature on voter turnout, scholars often argue that voters abstain from low-level elections, such as state court elections, primarily because they do not have information about candidates (e.g., Feddersen and Pesendorfer (1996)).

elections, if the judicial election is contested and partisan. On the other hand, only 70.1% of the voters who vote in major elections also vote in non-partisan judicial elections. This difference between partisan elections and non-partisan elections shows that the information about party affiliation of judges on the ballot is a key factor in the decision to vote in judicial elections. Table 17 also shows that there is very little difference in the relative turnout between non-partisan elections and retention elections. In retention elections, 71.8 percent of voters who vote on major elections also vote on judicial elections, which is similar to the case of non-partisan elections.

In summary, the substantial difference between partisan and non-partisan elections and the lack of difference between non-partisan and retention elections imply that information about party affiliation substantially affects the decision to vote, while competition by itself does not. This conclusion leads us to the following question: *Does the information about party affiliation on the ballot reduce voters' sensitivity to alternative sources of information about candidates?* We investigate this issue by estimating the influence of the amount of press coverage about judges on the turnout rates.

In analyzing the influence of the amount of press coverage on turnout, there is an obvious concern for endogeneity. A controversial court decision made by a judge can cause a large amount of press coverage and simultaneously increase voters' interest in that judge, and subsequently increase the level of turnout. Therefore, a regression of the turnout on the amount of press coverage may capture spurious correlations. To address this concern, we use the degree of match ("*congruence*") between judicial districts and the circulation of newspapers to proxy for the amount of newspaper coverage about judges. (See Lim et al. (2010) for details of this approach, and Snyder and Strömberg (2010) for the usage of this approach for media influence on congressmen.)

The basic premise in this approach is that newspapers cover more stories about districts in which they have a large share of readers, which is empirically verified in Lim et al. (2010). Precisely, to construct the definition of *congruence*, we consider a simple positive relationship between the number of articles, q_{md} , that a newspaper m writes about a judge in judicial district d and the share of newspapers' readers that live in judicial district d , $ReaderShare_{md}$,

that is,

$$q_{md} = \alpha_0 + \alpha_1 \times ReaderShare_{md}, \text{ where } \alpha_1 > 0.$$

Typically, multiple newspapers circulate in a judicial district. Hence, we aggregate over multiple newspapers sold in a judicial district. Congruence of judicial district d is the average $ReaderShare_{md}$ weighted by the market share of each newspaper:

$$Congruence_d = \sum_{m=1}^M MarketShare_{md} \times ReaderShare_{md}$$

where $MarketShare_{md}$ is newspaper m 's market share in judicial district d .

Figure 1: Example - High Congruence and Low Congruence

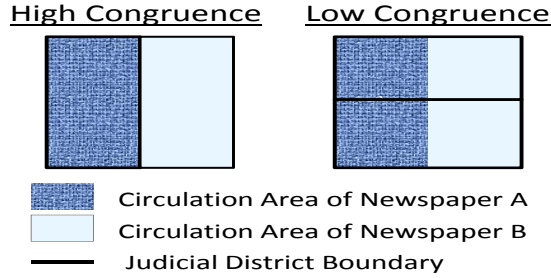


Figure 1 illustrates a case of high congruence and a case of low congruence. The left panel of the figure shows an example of perfect congruence between judicial districts and circulation areas of newspapers (a case of *congruence* equal to 1). In such a situation, events that take place in a judicial district are relevant to all the readers of the newspaper sold in that judicial district. Hence, newspapers cover a lot of stories about the court in that judicial district. In contrast, the right panel shows an example of poor congruence (a case of *congruence* equal to 1/2). In such a situation, events that take place in a judicial district are relevant only to half of the readers of the newspapers sold in that judicial district. Hence, newspapers have a weaker incentive to cover stories about the court in that judicial district.

Our data on press coverage of state court judges, which is from Lim et al. (2010), contains 1193 judicial districts from more than 40 states. The congruence measure has mean .35, median .37, and standard deviation .31. In Lim et al. (2010), they collected a data set on the actual amount of press coverage about state court judges for 2004-2005, counting the number of newspaper articles that mention state court judges' name, using

1,400 newspapers in NewsLibrary.com and a list of 11,000 state court judges for 2004-2005. There are on average 81 newspaper articles per year, newspaper, and judicial district. They verify that there is indeed a statistically significant and substantial effect of *congruence* on the amount of coverage. Specifically, increasing *congruence* from 0 to 1 increases the amount of press coverage by 21 articles, which is robust to the inclusion of a large set of demographic characteristics in the regression.

To measure the influence of voter information from press coverage on turnout, we estimate the regression equation of the following form:

$$y_{it} = \beta_0 + \beta_1 * congruence_{it} + \beta_2 x_{it} + \beta_3 \gamma_{it} + \epsilon_{it}, \quad (1)$$

in which y_{it} is the level of relative turnout, x_{it} is a set of variables on the number of candidates, γ_{it} is a set of demographic variables, and ϵ_{it} is a random disturbance. Table 18 shows the

Table 18: Voter Turnout and Congruence

	Partisan	Non-partisan	Retention
Congruence	0.0065 (0.0149)	0.0444*** (0.0131)	0.0171* (0.0106)
NN1	-0.0657 (0.1953)	-0.3212*** (0.0384)	
NN2	0.1739 (0.1946)	-0.1369*** (0.0401)	
NN3	-0.1230 (0.2205)	-0.1189*** (0.0422)	
NN4	-0.0108 (0.2021)	-0.0842 (0.0689)	
R^2	0.61	0.72	0.77
N	1695	2278	1893
State fixed effects included.			

Note: NN1, NN2, NN3, NN4 are dummy variables for elections with one, two, three, and four candidates, respectively. (NN5 is the omitted category.) Std. Errors are clustered at state-year level. Control variables included are: demographic composition of the population (race, gender, ethnicity, age), income, education, and crime rates.

results of the regression of relative turnout rate on *congruence* and the number of candidates in elections. The result shows that there is no effect of *congruence* (the amount of press coverage coverage) on the relative turnout rate in partisan elections and retention elections. On the other hand, in non-partisan elections, there is a statistically significant positive effect of *congruence* on the relative turnout rate.

This result is consistent with the implication of the partisan voting behavior documented in Section 3.1. If voters base their votes primarily on party affiliation, turnout rate can be high even when voters have almost no knowledge of judicial candidates' quality or court decisions. Furthermore, since the party affiliation on the ballot is sufficient information for the voters, the marginal effect of other information conveyed through media would not influence the decision to vote. On the other hand, in non-partisan elections, the shortage of voter information about judicial candidates leads to a low turnout rate. However, since party affiliation is not on the ballot (or judicial candidates do not have party affiliation), voters will rely on other sources of information, which leads to positive marginal effect of media coverage on relative turnout. Lastly, in retention elections, incumbents judges almost never fail. Due to the absence of challengers and the feature that the governor (or the state legislature) selects a new judge when a vacancy is created, even a small degree of risk-aversion leads to yes-vote by voters. Therefore, the benefit from acquiring information about judicial candidates, on the voters' point of view, is negligible. Moreover, the information about judicial candidates generated by media coverage may not be disseminated effectively, due to the absence of challengers, which further reduces the influence of press coverage.

4 Conclusions

Partisan elections may be a good idea for some types of public offices, especially those for offices with a large policy-making component. Intense partisanship may come at a cost, however. In particular, if voters make their decisions mainly on the basis of party – or ideology, or ethnicity, race, or religion – then they might elect low-quality officials with the “right” party or ideology over high-quality politicians with the “wrong” party or ideology.

Trial court judges probably do *not* have a large policy-making role, and it is not clear that party considerations should loom large. Evidently, however, when party labels are on the ballot voters rely heavily on these labels when voting. This cannot be explained by clear partisan differences in sentencing. More likely, it is due to the fact that the partisan cue is so easy to use.

More importantly, we find evidence that the relative quality of candidates has less effect

on voting outcomes in partisan elections than in non-partisan elections. This suggests one possible cost to using partisan elections, and also suggests that partisan elections might be a bad idea for electing trial court judges.

Our findings on turnout rates are also consistent with the results on partisan voting behavior and the influence of candidate quality on voting. In partisan elections, most of voters who vote in major elections also vote in judicial elections, for which they may not have detailed information about candidates. In non-partisan and retention elections, a substantial proportion of voters abstain, indicating that only those who have information other than party affiliation vote in judicial elections. In nonpartisan elections, alternative sources of information other than party affiliation on the ballot seem to matter in the decision to vote

Finally, our study can be extended to analyze the following issues: (1) It is probably not a good idea to hold non-partisan primaries at the same time as regular partisan primaries, because the electorate is often highly skewed, depending on which party has highly contested primaries at the top of the ticket. How much of a problem is this in practice? (2) How does candidate quality interact with factors such as race and gender, and how does this differ across electoral systems? (3) Is “voter confusion” a factor when there are many candidates on the ballot, leading to a higher probability that lower-quality candidates win?²⁵

²⁵Here is a typical argument. It was made in the context of a primary election in Pennsylvania in which 27 candidates competed in at-large primary elections for 7 positions, 19 of whom ran in both parties’ primaries. “With so many candidates, critics say, voters have little chance of making an informed decision... ‘It’s a crap shoot,’ said Lynn A Marks, executive director of Pennsylvanians for Modern Courts, a statewide court-reform advocate. ‘Too often, people vote for candidates not based on qualifications, but because of name recognition or ballot position or an ethnic name they relate to.’ (From: “Judge Hopefuls Campaign on Name,” by Andrew Conte, *Pittsburgh Tribune-Review*, Saturday, April 16, 2005).

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Table A.1: Competition in Partisan Elections by State – Primary Elections										
State	Seats up for Election	Number of Races					Number of Candidates in Contested Elections		Winner's Vote Share in Contested Elections	
		Total	Democrat		Republican					
			UnCon- tested	Con- tested	Uncon- tested	Con- tested				
			Mean	Std Dev	Mean	Std Dev				
AL	577	198	59	56	32	51	2.3	0.5	0.591	0.091
AR	52	28	9	13	3	2	2.1	0.3	0.625	0.090
AZ	49	58	28	6	22	2	2.4	0.7	0.593	0.190
IL	764	1053	223	358	259	210	3.6	2.0	0.432	0.163
IN	407	491	150	38	240	63	2.4	0.7	0.553	0.101
KS	526	562	241	31	240	50	2.3	0.8	0.544	0.110
MD	104	206	36	67	37	66	2.6	1.2	0.638	0.141
MO	176	196	86	18	69	22	2.4	0.7	0.553	0.110
MS	12	11	5	5	0	1	2.0	0.0	0.637	0.107
NC	22	10	0	6	0	4	2.0	0.0	0.603	0.081
NM	104	49	20	13	13	3	2.4	0.8	0.546	0.091
NY	201	–	–	–	–	–	–	–	–	–
OH	1300	1799	643	157	875	123	2.6	1.2	0.538	0.135
PA	51	100	4	47	5	44	3.0	1.2	0.521	0.133
TN										
TX	2370	2913	1104	271	1239	299	2.4	0.8	0.565	0.110
Total	6888	7674	2608	1086	3034	940	2.8	1.4	0.520	0.146

Note: For the number of candidates and winners' vote share, we report only the statistics of the elections with single winners, because statistics of the elections in multi-winner elections are not comparable to those of single-winner elections. Arkansas used partisan elections until 1998, then switched to non-partisan elections. In Arizona, counties with populations of 250,000 or greater select state trial court judges through gubernatorial appointment and retention election, and all other counties use non-partisan elections. Indiana uses partisan elections with the following exceptions: Circuit Courts and Superior Courts in Vanderburg County and Superior Court in Allen County use non-partisan elections; and, Superior Courts in Lake and St. Joseph Counties use gubernatorial appointment and retention elections. In Kansas, 14 judicial districts use partisan elections, and the other 17 districts use gubernatorial appointment and retention elections. In Missouri, Jackson, Clay, Platte, and St. Louis counties use gubernatorial appointment and retention elections for state trial court judges, and all other use partisan elections. Gubernatorial appointment with retention elections are used for appellate and supreme courts. Mississippi used partisan elections until 1992. North Carolina used partisan elections for superior courts until 1998, and for appellate and supreme courts until 2002. New York uses party conventions rather than primaries to make judicial nominations. We do not yet have data on primary elections in Tennessee.

Table A.2: Competition in Partisan Elections by State – General Elections								
State	Seats up for Election	Total Number of Races	No. of Uncon- tested Races	No. of Con- tested Races	Number of Candidates in Contested Elections		Winner's Vote Share in Contested Elections	
					Mean	Std Dev	Mean	Std Dev
AL	577	573	422	151	2.0	0.0	0.553	0.067
AR	52	32	17	15	2.0	0.0	0.602	0.074
AZ	49							
IL	764	753	464	289	2.0	0.1	0.592	0.072
IN	407	404	304	100	2.0	0.1	0.574	0.063
KS	526	522	449	73	2.0	0.0	0.563	0.056
MO	176	174	135	39	2.0	0.2	0.576	0.088
MS	12	11	8	3	2.0	0.0	0.613	0.078
NC	22	22	2	20	2.0	0.0	0.518	0.022
NM	104	104	51	53	2.0	0.2	0.556	0.045
NY	201	201	16	185	2.1	0.3	0.588	0.088
PA	51	51	20	31	2.0	0.0	0.542	0.032
TN	173	173	132	41	2.0	0.2	0.578	0.134
TX	2370	2332	1674	658	2.0	0.2	0.565	0.068
Total	6888	5372	3709	1663	2.0	0.2	0.570	0.071

Note: For number of candidates and winners' vote share in contested elections, we report only the statistics of the elections in single-member districts, because statistics of the elections in multi-member districts are not comparable to those of single-member districts.

Table A.3: Competition in Non-Partisan Elections by State – First Round							
State	Total Number of Races	No. of Uncon- tested Races	No. of Con- tested Races	No. of Candidates in Contested Elections		Top Vote-getter's Vote Share in Contested Elections	
				Mean	Std Dev	Mean	Std Dev
AR	109	41	68	2.3	0.7	0.568	0.092
AZ	53	44	9	2.8	1.6	0.554	0.100
CA	358	50	308	2.8	1.3	0.583	0.140
FL	1689	1505	184	3.2	0.9	0.461	0.112
GA	804	660	144	2.6	1.2	0.587	0.122
ID	182	164	18	2.3	0.5	0.579	0.081
IN	27	23	4	2.8	0.8	0.526	0.110
KY	361	232	129	2.4	0.9	0.559	0.096
LA	795	559	236	2.8	1.1	0.549	0.113
MD	82	78	4	2.0	0.0	0.615	0.052
MI	504	348	155	3.3	1.7	0.529	0.122
MN	504	443	61	3.0	3.1	0.596	0.146
MS	111	58	53	2.4	0.8	0.565	0.098
MT	154	128	26	2.9	1.3	0.545	0.116
NC	166	99	67	2.7	1.2	0.537	0.128
ND	167	145	22	2.7	1.2	0.554	0.144
NV	151	71	80	3.1	1.4	0.541	0.134
OK	544	348	196	2.5	0.9	0.571	0.106
OR	702	601	101	2.9	1.3	0.547	0.129
SD	83	59	24	2.4	0.8	0.569	0.126
WA	467	328	139	2.6	1.1	0.560	0.115
WI	1033	801	232	2.7	1.2	0.579	0.124
Total	10189	7427	2757	2.6	1.0	0.562	0.107

Note: For number of candidates and winners' vote share in contested elections, we report only the statistics of the elections in single-member districts, because statistics of the elections in multi-member districts are not comparable to those of single-member districts.

Table A.4: Competition in Non-Partisan Elections by State – Second Round							
State	Total Number of Races	No. of Uncon- tested Races	No. of Con- tested Races	No. of Candidates in Contested Elections		Winner's Vote Share in Contested Elections	
				Mean	Std Dev	Mean	Std Dev
AR	9	0	9	2.0	0.0	0.564	0.039
AZ	3	3	0				
CA	105	0	105	2.0	0.0	0.563	0.052
FL	125	0	125	2.0	0.0	0.557	0.046
GA	345	309	36	2.0	0.2	0.577	0.065
ID	5	0	5	2.0	0.0	0.552	0.026
IN							
KY	26	3	23	2.0	0.0	0.581	0.062
LA	85	12	73	2.0	0.0	0.569	0.094
MD	0	0	0				
MI	70	0	70	2.1	0.3	0.548	0.040
MN	14	0	14	2.0	0.0	0.585	0.066
MS	4	0	4	2.0	0.0	0.563	0.068
MT	51	4	47	2.0	0.0	0.586	0.069
NC	22	0	22	2.0	0.0	0.554	0.037
ND	163	123	40	2.0	0.0	0.592	0.068
NV	43	0	43	2.0	0.0	0.574	0.058
OH	112	47	65	2.1	0.2	0.534	0.109
OK	53	6	47	2.0	0.0	0.555	0.044
OR	67	40	27	2.0	0.0	0.560	0.044
SD	7	0	7	2.0	0.0	0.559	0.043
WA	312	274	38	2.0	0.0	0.570	0.049
WI	97	1	96	2.0	0.0	0.579	0.061
Total	1856	923	933	2.0	0.1	0.565	0.066

Note: For number of candidates and winners' vote share in contested elections, we report only the statistics of the elections in single-member districts, because statistics of the elections in multi-member districts are not comparable to those of single-member districts.

Table A.5: Competition in Retention Elections by State								
State	No. of Elections	Shares of Yes-Votes						
		Mean	Std Dev	Min	10th Pctile	Median	90th Pctile	Max
AK	106	0.655	0.050	0.519	0.604	0.652	0.720	0.775
AZ								
CA	245	0.688	0.064	0.520	0.587	0.699	0.762	0.801
CO	382	0.709	0.058	0.378	0.635	0.721	0.770	0.822
FL	329	0.702	0.047	0.549	0.635	0.709	0.762	0.810
IA	708	0.746	0.055	0.376	0.679	0.756	0.801	0.852
IL	1284	0.768	0.054	0.511	0.705	0.777	0.827	0.885
IN	33	0.696	0.037	0.595	0.649	0.702	0.732	0.780
KS	690	0.754	0.063	0.509	0.673	0.757	0.837	0.905
MD	47	0.845	0.040	0.746	0.779	0.861	0.883	0.899
MO	394	0.682	0.043	0.543	0.624	0.686	0.736	0.780
MT	108	0.813	0.057	0.591	0.730	0.832	0.877	0.916
NE	217	0.720	0.057	0.326	0.665	0.730	0.775	0.825
NM	129	0.732	0.070	0.505	0.642	0.751	0.810	0.861
OK	99	0.643	0.044	0.557	0.574	0.660	0.690	0.720
PA	83	0.759	0.085	0.476	0.634	0.778	0.838	0.865
SD	9	0.830	0.011	0.812	0.812	0.829	0.846	0.846
TN	33	0.745	0.018	0.703	0.715	0.753	0.760	0.768
UT	265	0.795	0.052	0.460	0.745	0.798	0.853	0.886
WY	66	0.780	0.046	0.493	0.743	0.786	0.820	0.847
Total	5405	0.739	0.068	0.326	0.646	0.747	0.820	0.916

Note: California, Florida, Oklahoma, and Tennessee use gubernatorial appointment and retention election for state appellate courts and supreme courts. In Montana, incumbent judges who are unopposed in the first round run for retention elections at the time of general elections. South Dakota uses gubernatorial appointment and retention election only for the state supreme court.

Table A.6: Partisan Differences in Judicial Evaluations					
State	Evaluating Body	Average Score			
		Dem	Rep	Diff	P-val
AK	Alaska Judicial Council				
AZ	Arizona Commiss. on Judicial Performance Review	1.00 (122)	0.99 (218)	0.01	0.19
CA	Average Across All Associations				
CO	Colorado Commiss. on Judicial Performance	0.99 (498)	0.99 (199)	0.00	0.79
FL	Dade County Bar Association				
IL	Average Across All Associations	0.85 (2453)	0.84 (1656)	0.01	0.64
IA	Iowa State Bar Association	1.00 (93)	0.99 (386)	0.01	0.49
KS	Kansas Commission on Judicial Performance	0.97 (67)	0.95 (44)	0.02	0.67
KY	Louisville Bar Association				
MI	Detroit Metropolitan Bar Association				
MO	Missouri Bar Association	0.96 (190)	0.99 (101)	-0.03	0.18
NE	Nebraska State Bar Association	0.98 (207)	0.99 (188)	-0.02	0.13
NM	New Mexico Judicial Performance Eval. Commiss.	0.98 (117)	1.00 (37)	-0.02	0.43
NV	Las Vegas Review Journal				
NY	New York City Bar Association	0.94 (68)	0.54 (56)	0.41	0.00
OH	Average Across All Associations	0.83 (233)	0.93 (312)	-0.09	0.00
PA	Average Across All Associations				
TX	Average Across All Associations	0.75 (545)	0.78 (687)	-0.03	0.20
UT	Utah Judicial Council				
WA	Seattle-King County Bar Association				
WY	Wyoming State Bar Association	0.93 (54)	0.90 (29)	0.03	0.65