Effects of News on the Level of Interest in State Supreme Court Candidates[*]

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Abstract

Does the content in news stories influence the level of interest in state supreme court candidates? Results using a dataset composed of coded LexisNexis articles, Follow the Money data, and Google Trends data show that campaign-related articles—stories that highlight the justices as candidates rather than legal arbiters—have a positive effect on public interest. Judicial articles, in contrast, reduce public interest. Despite previous research that suggest incumbents change their on-the-job performance in election years, this study shows that public interest is dependent on stories unrelated to the job performance of the incumbent officeholder.

Introduction

Does information in articles influence the frequency of Internet keyword searches for state supreme court candidates? Public interest expressed through search engines is consequential because the search engine manipulation effect (SEME) has the power to sway elections. R. Epstein and Robertson (2015) find that SEME can change people's preferences due to results provided by search engines, such as Google. In one of their double-blind, randomized controlled experiments conducted in the United States, the researchers assigned the participants into three groups and asked them to first read descriptions of two candidates then rated each candidate in terms of likability and trust and their likelihood to support the candidate. Then, participants conducted online research about each of the candidates. Each participant had access to the same search results and could click on the results freely, but the order of the results differed for each of the three groups. After the participants completed their 15 minutes of online research about the candidates, the researchers asked the participants to rate the candidates again. The results show that voters have a more favorable view of candidates who ranked near the top of the search results. In many cases, people were unaware that the order of the search engine results changed their minds about the candidates.

The search engines used in the R. Epstein and Robertson (2015) study are not real, but psychologist Robert Epstein, one of the authors of the paper, has a real target: Google. In 2015, Epstein criticized Google as "a serious threat to the democratic system of government" with the potential to rig the 2016 presidential election[1] Epstein's critiques of Google even prompted a response from Amit Singhal, the senior vice president at Google at the time. Singhal denied claims that Google ever re-ranked the search results for any topic and that the company's goal has always been to provide the "most relevant answers and results to [their] users."[2] In 2019, Epstein presented his research to the Senate Judiciary Committee, suggesting that Google could have influenced the 2016 presidential election and will have an

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[1]https://www.politico.com/magazine/story/2015/08/how-google-could-rig-the-2016-election-121548/
[2]https://www.politico.com/magazine/story/2015/08/google-2016-election-121766/

influence over the 2020 presidential election. Epstein's attacks on Google have garnered both praise and notoriety from those from academia, journalism, and politics.

In essence, this debate reveals an important perception shared by both academics and politicians: The Internet matters when it comes to political information-seeking. And, of all the Internet search engines, Google is not only one of the most notorious, thanks to Epstein's frequent critiques of it, but also one of the most popular. Most of the discourse, however, has focused on national elections.

What role, then, does the Internet play in the information-seeking process for state or local elections? Can the media influence whether voters use the Internet to find more information about a candidate? To do this, I look to state supreme court elections. I consider the amount of particular news types and evaluate whether they motivate voters to seek out information about state supreme court candidates. This paper builds on political communications research by categorizing news stories to unpack the level of public interest in low-information elections. Looking at state supreme court justices seeking reelection can illuminate the content of information that interests people who pay attention to elections.

Using news articles and Google Trends data, I look at over 20,000 articles from state supreme court campaigns in 35 states from 2004 to 2020 of judicial candidates seeking reelection. I find that stories about the campaign process *increases* the level of interest in candidates but stories about the judicial process *decreases* the level of interest in candidates.

Judicial Elections are Important

Judicial elections have consequential effects in the lives of ordinary people despite remaining low-information institutions. State courts process over 99 percent of litigation in the U.S., which represents approximately 100 million cases a year (Brace, Hall, and Langer 2001). In particular, state supreme courts have also played major roles in state education policy (Wilhelm 2007; Hill and Kiewiet 2015) and public policies ranging from LGBTQ+ rights to

workers' rights (Gibson and Nelson 2021). Beyond political elites, rank-and-file voters often do not engage in judicial elections.

Exposure to low-information elections occurs most frequently through media coverage. When voters educate themselves on the government, they look to both positive and negative press coverage (Burden 2002) and newspaper endorsements (Kahn and Kenney 2002) to learn about the candidates. News coverage, however, on state supreme courts are scant (Gann Hall and Bonneau 2013).[3] In terms of state supreme court elections, Streb (2007) finds that an average state supreme court race received less than 10 newspaper articles per election. Additionally, the absence of partisan labels in certain states, a key heuristic for voters in low-salience elections, makes it harder for voters to infer information about the candidates (Klein and Baum 2001; Schaffner and Streb 2002; Hall 2007). Due to lack of media coverage and widely available information, state supreme courts often fly under the radar.

Even in the absence of mainstream coverage of state supreme court elections, voters have a vested interest in participating in judicial elections. When citizens pay attention and vote according to their preferences, they get the policy outcomes they desire (Heinrich, Kobayashi, and Long 2018). Not all demographics are equally likely to represent their preferences at the ballot box, however. Individuals who pay attention to and participate in local politics tend to be those who are older, male, longtime residents, frequent voters in local elections, and homeowners (Einstein, Palmer, and Glick 2019; Hajnal and Lewis 2003). Local and state elections are more directly influential to the ordinary citizen than national elections, but many citizens do not participate in the local and state elections (Hajnal and Lewis 2003).

The court's legitimacy may be threatened when its elected justices only represent a fraction of the broader community. Public acceptance of court decisions are integral to judicial legitimacy. Thus, scholarly opinion towards judicial elections are decidedly mixed. On one hand, scholars often criticize the lack of judicial independence in elected courts

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[3]For example, L. Epstein and Segal (2000) find that a dismal 15 percent of U.S. Supreme Court decisions appear on the front page of the *New York Times*. In comparison, Vining and Wilhelm (2011) find that only 1.46 percent of state supreme court cases from 1995 to 1996 appeared on the front page of the most-circulated newspaper in the state, making the media coverage for the U.S. Supreme Court seem rather generous.

(Geyh 2003). Since elected justices rely on campaign contributions, they may be biased (Bonneau 2016). Other scholars praise judicial elections, especially partisan judicial elections, for promoting voter participation and judicial accountability (Dubois 2014; Gann Hall and Bonneau 2013; Woodson 2017). Voters in state supreme court elections have the power to hold their justices accountable and preserve the legitimacy of the courts, but they lack substantive information to carry out these goals.

A Theory on Information Seeking of State Supreme Court Candidates

Media coverage is paramount to promoting judicial elections. In a comprehensive study of state supreme court coverage in local newspapers, Hughes (2020) finds that media coverage mobilizes voters in a way that is comparable to that of expensive campaigns. The media are instrumental in communicating news to the public and have a powerful role in shaping how voters perceive candidates, campaigns, and elections.

The specific content of news stories certainly influences who cares about which elections. When there is little to no news coverage about the candidates, voters remain uninformed and refrain from voting (Streb 2007; Lovrich, Pierce, and Sheldon 1989). When the media expose audiences to high political content, such as coverage about campaigns and candidates, voters increase their political knowledge and are more likely to turn out to vote (De Vreese and Boomgaarden 2006; Rock and Baum 2010; Hojnacki and Baum 1991; Snyder Jr and Strömberg 2010). The effects of media coverage are particularly impactful for voters in high socioeconomic classes (Baekgaard et al. 2014; Becker and Dunwoody 1982; Rock and Baum 2010).

Stories about the court cannot be easily categorized into hard and soft news (Lehman-Wilzig and Seletzky 2010). Some state supreme court cases are mundane, covering the likes of zoning laws, foreclosure rules, and workers' compensation. Then, there are major

criminal cases that lend themselves to the kind of stories that exemplify hard news. If judicial campaign advertising is any indication, criminal cases can act as the basis of entire judicial campaigns. Criminal cases, however, contain elements of both hard and soft news. Reporting on violent crimes is prone to both seriousness and sensationalism. Yet, looking at states with capital punishment, news about capital punishment cases—featuring individuals who have committed violent crimes—does not dominate state supreme court coverage (Vining, Wilhelm, and Collens 2015). Media coverage on these types of cases is instead devoted to the actions of the justices and the court as a whole (Vining, Wilhelm, and Collens 2015). The case itself, which would otherwise inspire a hard news story, becomes a footnote.

Since stories about the court do not align with the traditional definitions of hard and soft news, I analyze state supreme court news through the lens of off-the-bench and on-the-bench stories. Off-the-bench stories highlight the candidate's personality, family, background, and their activities on the campaign trail. On-the-bench stories emphasize facts and technical details of court cases, such as case facts and how the justices voted. Looking at stories through the lenses of off-the-bench and on-the-bench news stories helps this study conceptualize what moves public interest. By making a distinction between what judicial candidates do on the bench and what they do off the bench could make it possible to identify what type of stories about the justices move voters to seek more information about the campaign.

Media coverage has long dictated public interest (Bogart 2017). The media have both a financial and reputational stake in attracting readers to their stories. While those who are politically knowledgeable are more reliable readers than those who are not, a human interest story is more likely to capture readers the attention of readers who are not politically knowledgeable (Patterson 2000). Thus, the media generates stories that appeal to the public appetite for horse-race coverage, controversy and scandals, affective polarization, and viability. The public demands conflict and competition in their news, and the media produce stories that cater to such demands.

To attract readership, journalists often game-frame issues to sensationalize certain stories.

In game-framing, journalists focus on drama and conflict (i.e., "winners" and "losers") rather than substantively explaining the complexity of key issues (Lawrence 2000). In a study of the 1988 Democratic presidential primaries, Mutz (1995) finds that the media coverage of the campaign as a horse-race motivates campaign contributions, as the coverage often signals whether a candidate is gaining or losing support and whether a candidate is viable. As a result, the media has elongated election seasons to generate more strategy-oriented stories to draw reader attention (Iyengar, Norpoth, and Hahn 2004). In addition, most of the public receives their news from television news, which often frames stories as horse-races (Gilliam Jr and Iyengar 2000; Hallin 1992). For low-salience elections to be newsworthy, the elections need to have at least one of the characteristics that the media can spin into a narrative that attracts public attention.

Controversial and scandalous stories about the political opposition have become quite popular. Due to increasing partisan polarization, the average voter has become much more prone to affective polarization (Iyengar et al. 2019). Affective polarization has made negative coverage about political opponents even more prominent. In a study of 32 scandals in 200 newspapers, Puglisi and Snyder Jr (2011) find that Democratic-leaning newspapers lend more coverage to scandals involving Republican politicians than scandals involving Democratic politicians, and Republican-leaning newspapers covered Democratic scandals more than Republican scandals. From this, it is clear that newspapers know their audiences and want to curry favor with them by providing them the satisfaction of witnessing the humiliation of an enemy. On the gubernatorial level, Nyhan (2017) shows that the staying power of scandals is dependent on the approval ratings of those involved and other news stories. While scandal entertains the public, the impact of scandal, especially on the state level, is dependent on who is at the center of the scandal and their involvement in other news stories.

Stories about the campaign process make voting a less daunting task. Voters often turn their attention to the most viable candidates, which cuts the field down to only a few candidates (Utych and Kam 2014; Abramowitz 1989). The media can then focus on a few

candidates through game-framing and horse-race coverage. Personal aspects about candidates attract readers (Brewer and Cao 2006). This kind of soft news coverage in turn engages the politically uninformed (Prior 2003; Nguyen 2012). Unlike hard news, soft news attracts the attention of people who do not pay attention to politics (Baum 2002; Baum and Jamison 2006). Campaigns supply rich personal anecdotes, making each campaign story vulnerable to soft news coverage. In campaigns, people often evaluate the candidates on characteristics that do not require much political knowledge, such as likability, personality qualities, or personality traits (Markus and Converse 1979; Arbour 2016). Political knowledge is an irrelevant factor when no knowledge is necessary to follow or understand a political narrative. In other words, stories about the campaign can appeal to a wider audience than stories about the court.

> **Hypothesis 1:** Off-the-bench stories increase the level of interest in judicial candidates more than on-the-bench stories.

Political candidates of all stripes alter their behavior during reelection years. Scholars have focused on the behavioral changes of reelection-minded legislators who anticipate electoral challenges (Volden and Wiseman 2014; Ban, Llaudet, and Snyder Jr 2016; Thomsen et al. 2019; Patty et al. 2019). Judicial candidates are no different.

During reelection years, justices are particularly sensitive to cases about capital punishment. In a study of death penalty cases in Kentucky, Louisiana, North Carolina, and Texas from 1983 to 1988, Hall (1995) finds that single-member districts, narrow vote margins, being near the end of a term, experience with electoral politics, prosecutorial experience, term length, and state murder rates contribute to whether a justice votes in favor of the death penalty. Similarly, in 1990, Pennsylvania also indicates that elected justices hand more severe punishments for criminal cases as reelection nears (A. Huber and Gordon 2004). Conventional wisdom points to the notion that justices vote differently during reelection years to appeal to what they believe their constituents expect from them.

Despite the best efforts of justices to market themselves to their constituencies as arbiters of crime and punishment, these strategic shifts in behavior may be all for naught. The

problem is that most of the public does not understand legalese, the law, or their rights. In fact, people often overestimate or underestimate their legal rights (Kim 1999; DeChiara 1995). For example, when asked about their employment rights, respondents from Missouri and California were only able to answer 40% of the questions correctly, and respondents from New York were only able to answer 25% of the questions correctly (Kim 1999). Many people assume that the law aligns with their beliefs (Denvir, Balmer, and Pleasence 2013; Van Rooij 2020). People perceive legalese as unpersuasive and not credible (Benson and Kessler 1986). Even jurors who serve jury duty find the instructions incomprehensible (Randall 2014). Complexities of the legal system make the courts difficult for the public to digest.

Coupled with the public's lack of awareness about the law, the lack of legal expertise in the newsroom has further exacerbated disinterest in state supreme court cases and decisions. The public relies on the media to understand the courts (Slotnick 1991). The media, however, have their own agenda. Instead of gathering legal expertise in the newsroom, the media are more focused on finding a hook to captivate the public.

State supreme court coverage, like coverage of the U.S. Supreme Court, focuses on cases that could garner the widest audience. Also like coverage of the U.S. Supreme Court, resources available to a newspaper can change the frequency of media coverage of the state supreme courts. Out of 96 random state supreme court decisions, the major state newspapers only covered 16 percent of the decisions (Hale 2006). The media cover oral arguments even less than decisions (Hale 2006). Most newspapers cover one court decision in detail, as opposed to high-level summaries of numerous court decisions or the votes of specific justices (Hale 2006). Vining et al. (2010) find that most-circulated newspapers cover almost twice as many decisions as capital-city newspapers. By 1996, about 56 percent of state supreme courts had public information officers, whose goal was to help promote the court (Hale 2006). In general, the cases that invite front-page coverage often involve controversial issues or decisions antithetical to those of the legislative and executive branches, inviting the impression that the state supreme court is an integral part of the political discourse (Vining et al. 2010).

Then again, this is the media catering to the nationalization trend, even through its reporting of low-salience institutions.

Instead of focusing on individual justices, the media are more likely to cover the state supreme courts as they relate to national interests (Yanus 2009). Since the media recognize court decisions as complex, they alter their reporting style to encompass a more holistic understanding of the judiciary rather than focus on individual justices. This suggests that the media do not report on the court often enough to alter public interest in a particular candidate in any meaningful way. Instead, the media may distract the public from the individual justices and motivate the public to focus on the cases themselves. When the media do devote space to major cases, the attention focuses on the content of the case rather than the particular justices involved. Attention may shift from the judicial candidates and their campaign endeavors to the state supreme courts and their decisions, thus causing an increase in interest in the court as a collective body and a decrease in interest in the individual justices.

> **Hypothesis 2:** Off-the-bench stories decrease the level of interest in judicial candidates compared to on-the-bench stories.

Data and Measures

Central to the analyses of this study is a list of state supreme court candidates running for reelection from 2004 to 2020 in partisan, nonpartisan, and retention elections.[4] I select all candidates running for reelection, including those running unopposed.

Measuring Level of Interest with Google Trends

To examine the level of public interest in judicial candidates, I consider how often users seek information about the candidates. I use a measure of information-seeking that is sourced

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[4]Kritzer, Herbert, 2015, "State Supreme Court Election Data", https://doi.org/10.7910/DVN/1P1JFG, Harvard Dataverse, V22

from actual keyword searches by Internet users in the United States. A 2012 Pew Research Center study finds that 91% of adults consult search engines and about 60% of the adults used a search engine the day before being interviewed for the study; and, of the adults who used a search engine, 83% of them preferred Google.[5]

Data for this study starts in 2004, which is also the earliest available instance of Google Trends data. Scholars have used Google Trends to gauge how people seek information about political candidates (Utych and Kam 2014), how public attention to a particular topic could influence the agenda of the mainstream media (Gruszczynski and Wagner 2017), and issue saliency (Mellon 2014). Google Trends data, however, do not provide raw counts of searches. Instead, Google Trends data measure the popularity of terms with a scale from 0 to 100. Google Trends indicate that a term has a value of 100 when it has the highest volume of searches within a particular time frame. All other dates are only a fraction of that maximum. For example, I can search the name of former North Carolina State Supreme Court Justice, "Cheri Beasley," within the time frame of August 6, 2014 to November 4, 2014. During this time frame, the term "Cheri Beasley" has a Google Trends value of 100 on November 4, 2014. (Election Day for the North Carolina Supreme Court), but a value of 0 on August 6, 2014. This means that most people searched for "Cheri Beasley" on November 4, 2014 during the specified time frame, and relative to that date, few (if any—again, Google Trends do not provide a raw count of searches) searched for "Cheri Beasley" on August 6, 2014.

I examine the influence of on-the-bench and off-the-bench news stories on public interest in the candidate in state supreme court general elections from three months prior to the general election date up until the general election date. I focus the searches on state supreme court candidates running for reelection. To accomplish this, I collect daily hits information from Google Trends using the names of the candidates and variations of the names. To increase the confidence that the user actually intended to search for the judicial candidate, the search term must include a variation of the candidate's first name (e.g., Daniel or Dan)

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[5]https://www.pewresearch.org/internet/2012/06/06/main-report-15/

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and some variation of the candidate's last name (e.g., Rhodes Russell or Russell). I also include searches for "judge" or "justice" preceding the candidate's surname (e.g., Judge Kelly or Justice Kelly). Unfortunately, those interested in Michael Douglas of the Nevada Supreme Court are indistinguishable from those interested in Michael Douglas the movie star.[6] The estimated means measure allows me to use the Google Trends hits variable as a dependent variable while investigating whether the the amount of a certain type of information presented in news articles influence the level of public interest.

Lastly, I use lagged independent variables in order to consider an article's impact on Google searches for three days after its publication. Especially with articles posted on the Internet, many people might not read the article or be aware of the news discussed in the article until the next day or following days. Including lagged independent variables help capture the "lag" in these relationships as the causal effect may occur gradually and motivates changes in the dependent variable at a later time.

Figure 1 indicates that candidates in 2009, 2011, and 2015 received the most media coverage, showing that there is a relationship between number of articles written about candidates and public interest via Google searches about the candidates. The Wisconsin Supreme Court held elections for all three years. There were 143 articles about Justice Abrahamson in 2009, 185 articles about Justice Prosser in 2011, and 108 articles about Justice Bradley in 2015. In 2011, Justice Eakin from the Pennsylvania also ran for re-election, but he was only covered in 25 articles. This demonstrates that Wisconsin Supreme Court elections attract a lot of media coverage per candidate.

Categorizing Article Information

To evaluate the number of hits relative to the number of articles published about a candidate, I collect over 20,000 articles from LexisNexis database using the justices' names and states as search terms. I collect articles about the justices from the first week in the year

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[6]In Appendix B, I conduct an analysis that does not include names shared by other well-known people.
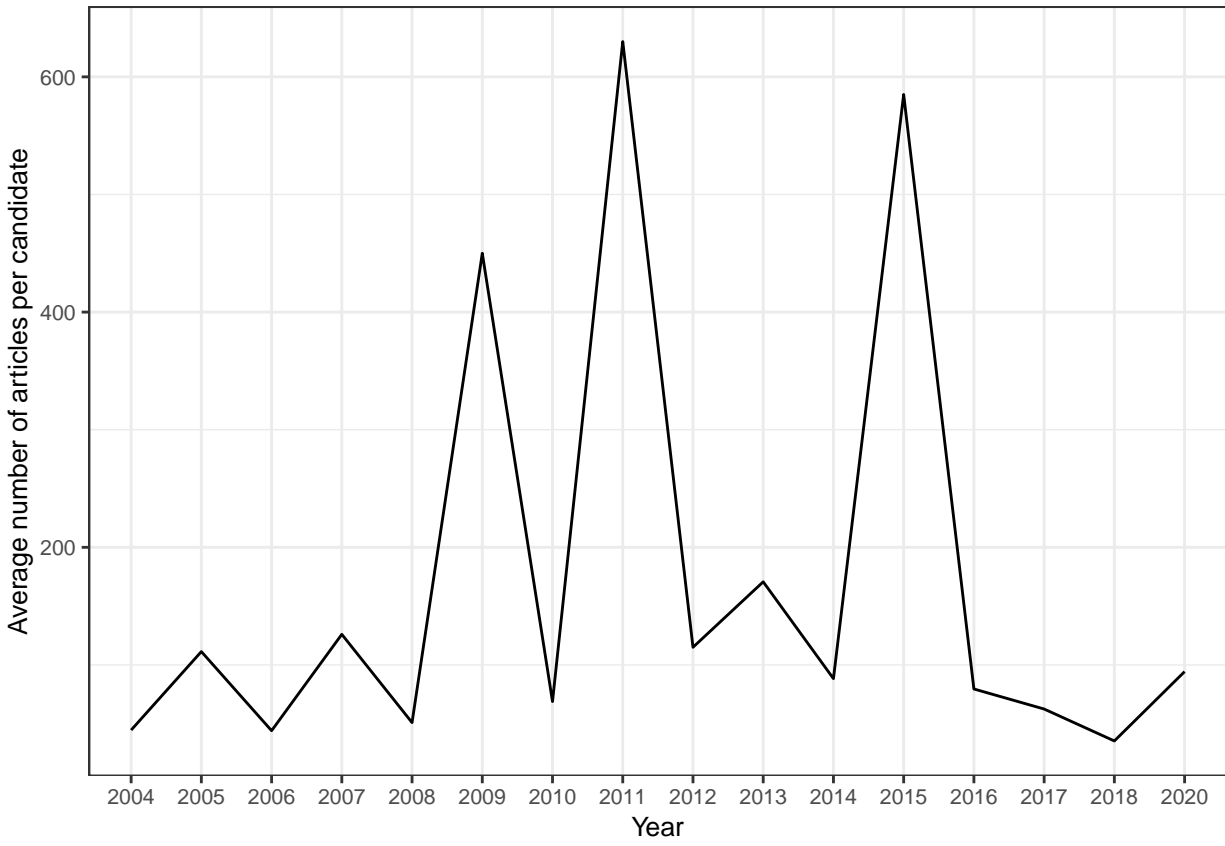
Figure 1: Display the mean number of articles per year.

the candidates are up for reelection to the week they stand for the general election. Justices in 35 states ran for reelection from 2004 to 2020. I extract a 10 percent sample of articles and my research assistant manually checks that the articles are about the justice and not some other state luminary with the same name. From the group of verified articles about justices, I identify the words that appear more than 4,000 times in verified articles and filter out articles from the larger sample that do not have those words.[7] This collection of articles includes all news articles or transcripts that are available on the database and excludes research articles from academics and research organizations.

To create a dictionary of on-the-bench and off-the-bench words, I rely on pre-existing glossaries. For the judicial dictionary, I compile words from the Legal Terms Glossary from the United States Department of Justice website[8] and the Glossary of Legal Terms from the United States Courts website,[9] which are both official government websites. For the campaign dictionary, I compile words from the U.S. Election Assistance Commission.[10] The only word that overlaps the two dictionaries is the word "file." In the judicial context, one could *file* a case. In the campaign context, one can *file* a campaign statement or campaign finance report.

I apply the dictionaries to both the headline and the body of the article. Especially in the age of Internet clickbait culture, the headline of an article acts not only as a heuristic but as the *reason* for why information might even exist in the mind of the average voter (Bazaco 2019; Hurst 2016; Kumar et al. 2018). Headlines hook people to the story. Most people read the headlines, but only a select few with a vested interest in the topic are likely to read the entire story (Dor 2003). Political communication scholars point out headlines as the primary heuristic for low-information contexts—a context in which judicial elections often reside (Andrew 2007; Sundar, Knobloch-Westerwick, and Hastall 2007). The body of articles can contain a lot of information irrelevant to why an individual might be interested

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[7]The top seven words are court, state, district, supreme, justice, law, and county.

[8]https://www.justice.gov/usao/justice-101/glossary

[9]https://www.uscourts.gov/glossary

[10]https://www.eac.gov/election-officials/glossaries-of-election-terminology

in the article, and people tend not to read closely (Lin, Salwen, and Abdulla 2004). The body of the article, however, can offer a wealth of information for the people who do read it and is thus included as part of the analysis.

To evaluate the judicial or campaign content, I consider the *proportion* of campaign and judicial words in the title and the body of the article. I use the proportion to further calculate the *majority* category. For example, if an article features a higher proportion of off-bench terms, then I categorize it as an "off-bench" article, and if an article features a higher proportion of on-bench terms, then I categorize it as an "on-bench" article. If, however, an article features an equal proportion of off-bench and on-bench terms, I will code the article as both an off-bench and on-bench article.

For example, the following article contains 15.4 percent of on-bench terms, with each on-bench term **bolded**. Since this article only features on-bench terms, I coded it as an on-bench article.

> "Indiana Supreme Court rejects Myers' **appeal**"[11]

> The Indiana Supreme Court will not **hear** the **appeal** of the man **convicted** in the 2000 slaying of 19-year-old Indiana University student Jill Behrman. Chief Justice Randall Shepard says the supreme court justices reviewed and discussed the **case** before rejecting the **appeal** of John Myers II. The 32-year-old Myers is serving a 65-year **sentence**. His attorney, Patrick Baker, had **argued** Myers was denied a fair **trial** for a variety of reasons including **pretrial** publicity in Morgan County, inappropriate **testimony**, and **jury** misconduct. The Indiana Court of **Appeals** earlier **upheld** Myers' **conviction**.

This following article contains 6.9 percent of off-bench terms, with each off-bench term ***bolded and italicized***. Since this article only features off-bench terms, I coded it as an off-bench article.

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[11]Indiana Supreme Court rejects Myers' appeal. https://advance-lexis-com.ezproxy.library.wisc.edu/api/document?collection=news&id=urn:contentItem:4TTD-MHN0-TW8Y-R1HT-00000-00&context=1516831.

"Bradley raises nearly \$110,000 in January for court *race*"[12]

MADISON, Wis. (AP) - Wisconsin Supreme Court Justice Ann Walsh Bradley has raised nearly \$110,000 this year in her ***re-election*** bid. Bradley reported raising \$109,894 in January. That brings her total raised to just over \$375,000 for the ***campaign*** so far against Rock County Circuit Judge James Daley. Daley had not yet reported his January ***fundraising*** totals by mid-afternoon Monday. The report was due by midnight. Bradley, who is seeking a third 10-year ***term*** on the court, reports having nearly \$353,000 cash on hand. Daley last week reported raising just \$74,600 through the end of last year. In recent years, outside groups with ***partisan*** interests have spent heavily on officially ***nonpartisan*** Supreme Court ***races***, far surpassing spending by the actual ***candidates***.

The following article contains 4.5 percent of on-bench terms and 10 percent of off-bench terms, with each on-bench term **bolded** and each off-bench term ***bolded and italicized***. Since this article features more off-bench terms, I coded it as an off-bench article.

"Justice Scott gets ***endorsement*** from **prosecutors**"[13]

Supreme Court Justice Will T. Scott has picked up a ***campaign endorsement*** from a group of state **prosecutors**. The Kentucky Commonwealth Attorneys Association announced the ***endorsement*** last week. Scott is being ***challenged*** in the Nov. 6 ***election*** by Court of **Appeals** Judge Janet Stumbo. The ***race*** is a rematch between the two. Scott won the ***seat*** by ***defeating*** Stumbo in 2004. Stumbo won a ***seat*** on the Court of **Appeals** in 2006 to a ***term*** that expires in 2014. Commonwealth Attorney Association President Matthew Leveridge said

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[12]Bradley raises nearly \$110,000 in January for court race. https://advance-lexis-com.ezproxy.library.wisc.edu/api/document?collection=news&id=urn:contentItem:5F8D-0011-DYN6-W2V0-00000-00&context=1516831.

[13]Justice Scott gets endorsement from prosecutors. https://advance-lexis-com.ezproxy.library.wisc.edu/api/document?collection=news&id=urn:contentItem:56KT-99G1-JBGK-F00T-00000-00&context=1516831.

prosecutors believe Scott's legal experience and knowledge make him well suited to continue serving on the Supreme Court.

The following article contains 6.5 percent of off-bench terms and 6.5 percent of off-bench terms, with each on-bench term **bolded** and each off-bench term ***bolded and italicized***. Since this article features an equal proportion of off-bench and on-bench terms, I coded it as both an off-bench article *and* as an on-bench article. The article has elements of on-bench and off-bench dynamics. While the dictionary is not perfect—the word "office" in "attorney general's office" is coded as a off-bench word—it is able to effectively categorize the article as an article that conveys both on-bench and off-bench information.

W.Va. court to **hear** 'rescue' funding **arguments**

West Virginia 's Supreme Court is ready to **hear** from this year's publicly financed ***candidate*** for the court. ***Republican candidate*** Allen Loughry seeks the release of additional funding from the pilot financing program so he can keep pace with his opponents. The State ***Election*** **Commission** has withheld these so-called rescue funds in the wake of **federal** rulings targeting such funding in other states. But the **commission** also plans to defend the funding provision at Tuesday's **hearing** in Loughry's case. The state attorney general's ***office*** has joined the **case** to highlight the **federal** rulings. These decisions say rescue funding chills the political speech of traditionally financed ***candidates*** and their contributors. Justice Robin Davis is ***running*** in this year's two-***seat race***. Davis and two other justices have recused themselves from Loughry's **case**.

Figure 2 displays information on which years contain the most Google searches for candidate names. This graph shows that the number of Google searches gradually increased since 2004, peaking at 2009 and 2015——both in years where the only state supreme court reelections occurred in the Wisconsin Supreme Court.
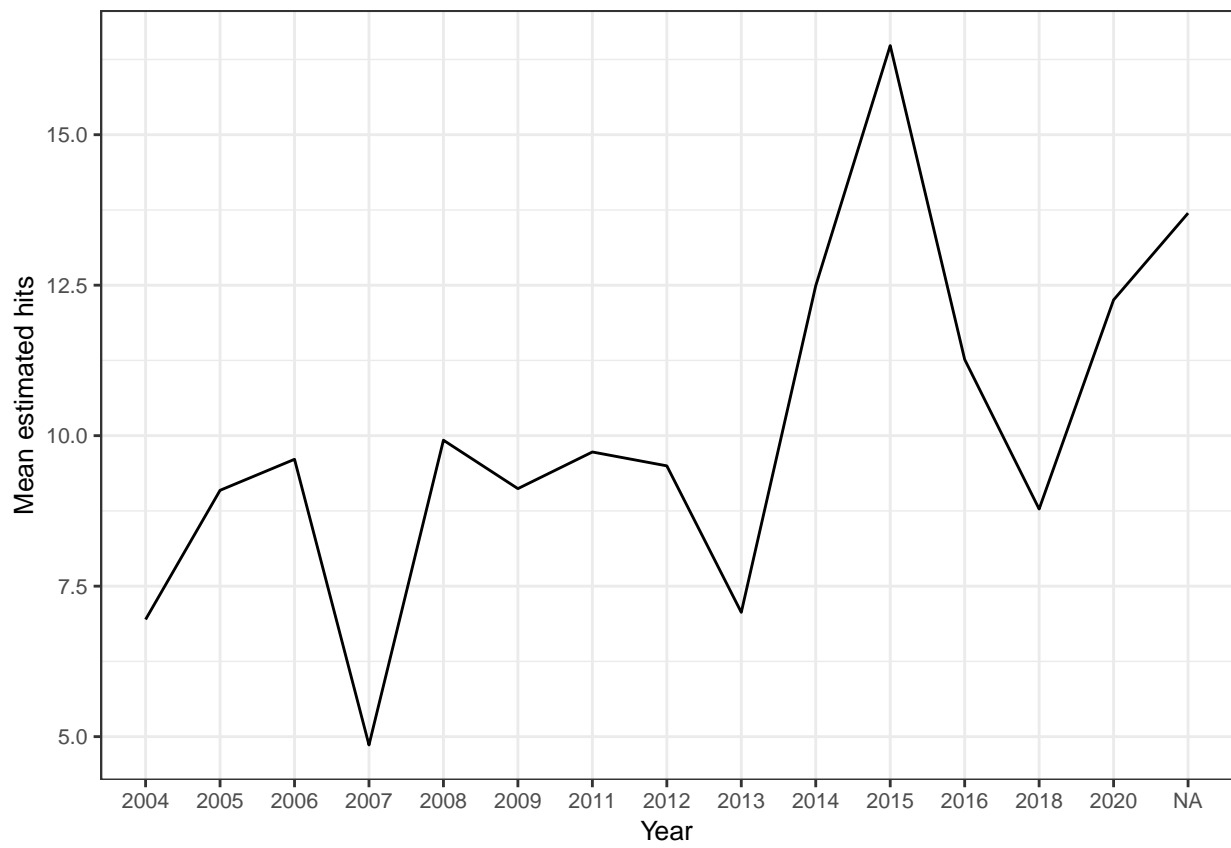
Figure 2: Display the average number of hits per year.

The peak in 2009 is an interesting case. There was only one race that year in the Wisconsin Supreme Court. Associate Justice Shirley Abrahamson ran for reelection against challenger Randy Koschnick. Up until the April 7, 2009 election, newspapers published 154 stories related to Abrahamson. Many of theses stories contained attacks from her challenger Koschnick and stories about Abrahamson accepted campaign contributions from attorneys with medical malpractice cases pending before the court, which attracted media scrutiny.

In 2015, the race between Ann Walsh Bradley and James Daley was a war of words. Incumbent Bradley spent $145,000 on two TV ads when Daley did not purchase any TV ad spots and instead focused on radio spots. The candidates participated in many media appearances, including a televised debate, prior to the general election.

Other events transpired during the 2015 race. This included Abrahamson seeking a restraining order against her fellow justices, including Bradley, to prevent a vote to remove her as chief justice as a result of a newly approved amendment to the state constitution that required justices to select a chief justice to the court. While the five other state supreme court justices joined together in one lawsuit, Bradley decided to defend herself in the lawsuit. Abrahamson's request, however, was unsuccessful. Additionally, Daley accusesd Bradley of releasing information about his daughter's DUI charge to the public.

When there are narratives about contribution controversies and a challenger attacking the record of a sitting chief justice in a polarized state supreme court, people are more likely to pay attention look for more information. In addition, this use of the Internet in 2009 is perhaps a result of the 2008 election season—only five months prior to the Wisconsin Supreme Court election—where the Internet played a crucial role in Barack Obama's presidential campaign and the cultivation of other grassroots campaign movements with the goal of swaying elections.

Figure 3 shows that states with governor appointss selection methods or retention elections generally generates the most news articles, while other selection methods appear to oscillate throughout time. This is not surprising, as the governor appointment selection method make
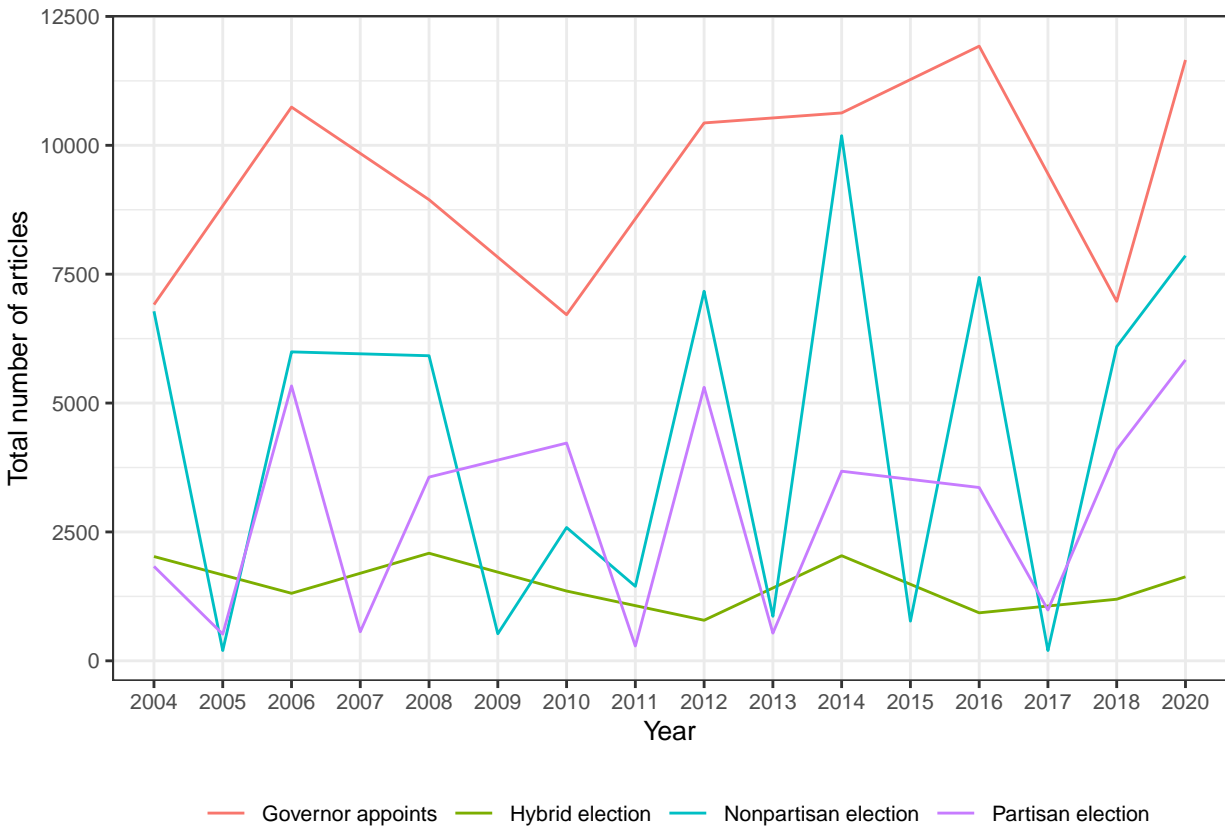
Figure 3: Display the mean number of articles per year.

up 43 percent of the selection methods in the states, followed by nonpartisan (33 percent), partisan (19 percent), and hybrid elections (5 percent), which mirrors the patterns in the graph. Predictably, state supreme court elections in years with midterm and general elections produce the most articles, as *most* state supreme court elections are consistent with the regular election calendar. Interestingly, retention elections are not what one typically would think as attracting coverage. Hybrid elections, on the other hand, only happen in Michigan and Ohio. As a result, it is surprising to observe significant increases in article production for states with retention and hybrid elections.

To understand what may have been driving news coverage in the 2010s, I disentangle the results. First, I look at retention elections in 2012. I find that nearly 41 percent of articles are about the Florida Supreme Court retention elections. Justices Barbara Pariente, Fred Lewis, and Peggy Quince faced intense opposition from conservative groups, such as Restore Justice 2012, the Florida Republican Party, and Americans for Prosperity. These conservative groups accused the justices of being activist justices. The retention elections received so much media attention that the Florida Bar even created a program to inform voters about the upcoming retention elections. Floridians, however, retained Pariente, Lewis, and Quince with about 68 percent of the vote for each justice.

Second, I look at articles in all elections in 2010. Media coverage of the Iowa Supreme Court accounted for nearly 12 percent of all articles about state supreme courts running for re-election in 2010. Voters removed Justices Marsha Ternus, David Baker, and Michal Streit from the court for being part of an unanimous decision to strike down a law that would define marriage as between a man and a woman. Both in-state and out-of-state conservative groups spent millions of dollars to oppose retention for these justices. The successful opposition of justices running for retention in Iowa may have been a major impetus to the groups that ran opposition campaigns against the Florida candidates.

News articles about candidate running for Ohio and Michigan account for nearly 21 percent of news articles on all state supreme elections in 2010. Ohio had three seats up

for re-election and two of the seats attracted challengers. Michigan had two seats up for re-election and both seats had challengers, with one of the incumbents keeping the seats and the other losing it.

Looking at the most-covered state supreme court races, I find that races that fuel extreme opposition from wealthy interest groups or pit incumbents against challengers attract the most media coverage. Moreover, some local newspapers likely devote more journalistic resources to state supreme court coverage than others, even if they have about the same number of races and number of local newspapers in the state.
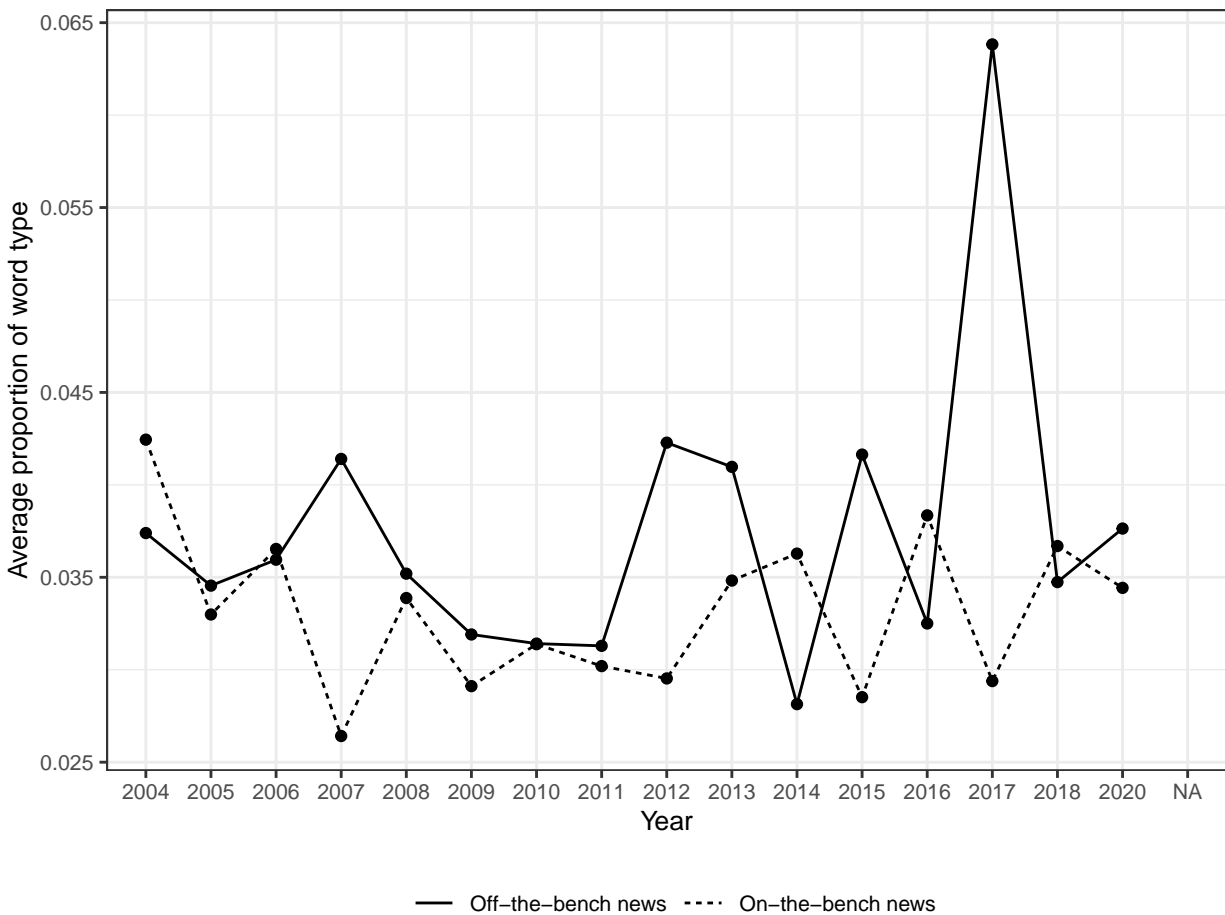

Figure 4: Display the average proportion of campaign and judicial terms in article headlines per year.

Figure 4 shows that in most years, on-the-bench information is more prominent in news articles. This makes sense because any article that features stories about a state supreme

court candidate running for re-election on the campaign trail is likely to mention some of their activities on the court as well as off the court.

There are four years that had more off-the-bench coverage than on-the-bench coverage: 2007, 2009, 2015, and 2017. Note that these are all odd-numbered years, where the elections are not held in conjunction with midterm or presidential elections. In 2007, the Pennsylvania Supreme Court had one candidate running for re-election. In 2009 and 2015, the Wisconsin Supreme Court had a candidate running for re-election in each year. In 2017, four justices ran for re-election on the Pennsylvania Supreme Court. Based on the descriptive data, covering elections during odd years encourage articles to provide details about justices that go beyond their day-to-day court activities.

Additional Control Variables

I control for word count, daily campaign contributions, publication characteristics, ballot characteristics, and candidate characteristics in my analyses. Word count is important in order to capture the length of the article. Since the word count is on a different scale than the hit counts, I log the total word count for every article.

Campaign contributions have become a prominent feature of any election, especially as campaigns themselves have become more time-consuming and expensive. Campaign contributions, however, have a complicated role in state supreme court elections. Despite public skepticism about money in the courts, campaign contributions are powerful tools in the context of judicial campaigns and voter mobilization. The mere perception of money in the judiciary threatens the legitimacy of court decisions (Kang and Shepherd 2011; Grannis 1987; Wendel 2017). Negative perceptions of money tainting the courts have only exacerbated as campaign spending skyrocketed over the years. In fact, people prefer mudslinging in campaign ads over campaign contributions (Gibson 2008, 2009; Gibson et al. 2011). In general, people like to see judges recuse themselves from cases associated with their donors (Gibson and Caldeira 2012, 2013). Since campaign contribution amounts are on a different scale than the

hit counts, I log the total word count for every article and add one, as some campaigns have negative contribution amounts due to a return of public funding to the public fund, a return of a contribution to the contributor in the case where a campaign rejects a contribution or returns a portion that exceeds contribution limits, and a repayment on a loan.

I extract the publication names from the LexisNexis articles and manually label them as "AP State and Local," "Local", "National", and "Other," which includes blogs, broadcast transcripts, government releases, international news outlets, newswires, and trade publications. In general, judicial candidates receive the most coverage from the Associated Press and local newspapers. "Other" is the reference level for publication types.

State supreme court elections vary by state, contributing to the idiosyncratic nature of the state supreme court system. As such, I consider whether the ballot format is partisan, hybrid, nonpartisan, or retention. These controls are typical of studies on the state supreme courts (Hughes 2020; Kritzer 2016; Hall 2020). Given that this study is interested in public perception of state supreme court justices in the context of competition, I also control for identity. To evaluate candidate characteristics, I identify whether the candidate is female or a type of racial minority.

Results

Given that the dependent variable represents relative frequencies on a continuous scale between 0 to 100 and the hierarchical structure of the data, I estimated a linear mixed-effects model (LMM) to account for year, state, and candidate random effects as well as controls. The results conform with the hypotheses that off-bench stories *increase* Google Trends hits, and on-bench stories *decrease* Google Trends hits. In other words, the results provide evidence to support the claim that stories that contain more information about the candidates as active on the campaign trail increase public interest in them, and stories that contain more information about the candidates as active state supreme court justices decrease public

interest in them.

I estimate three models that consider variations of how the public could search these candidates.[14] I examine what an increase in proportion of terms associated with on- and off-bench information has on the probability of the public searching the justice on Google. Further, I examine the Google Trends hits with lagged independent variables. In essence, I look at whether the effect of the information provided in the articles decreases, remains about the same, or increases the probability of Google Trends hits one, two, or three days after the article's original pubilcation. To examine the relationship between article information and public interest in the candidates, I present models that consider 1) variations of the justice's names,[15] 2) the candidate's surname preceded by "justice," and 3) the candidate's surname preceded by "judge."[16]

Figure 5 shows that when I estimate a model of Google Trends hits for variations on the full name of state supreme court candidates running for reelection, the effects are statistically significant for both off-bench and on-bench terms. In addition, the results conform with my hypotheses: Higher proportion of off-bench terms result in an *increase* in Google Trends hits, while higher proportion of on-bench terms result in an *decrease* in hits.

There is an increase of approximately 1.94 of Google Trends hits given the increase in off-bench terms in articles. To put this number into context, consider Florida Supreme Court Justice Barbara Pariente. On September 19, 2012, Justice Pariente had zero Google Trends hits and no publication featured an article about her on that date. On September 20, 2012, however, a publication featured an article about the upcoming judicial election and Google Trends recorded two hits for Barbara Pariente that same day. This example demonstrates

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[14]Looking at the akaike information criterion (AIC) tests in the full results in Appendix A, Appendix B, and Appendix C the models containing control variables better represent the relationships between proportion of on- or off-ballot information in an article and public interest in the candidates.

[15]In Appendix D, I estimate the first model without common names.

[16]Members of the state supreme court are referred to as "justices," since they are part of the highest court in their state. Members of criminal courts in states where there are two courts of last resort (i.e., Texas and Oklahoma)—a court for criminal cases, and a court for non-criminal cases—are referred to as "judges." These distinctions are not common knowledge, so I include both "judge" and "justice" preceding the candidates' surnames as potential keyword searches in my analyses.
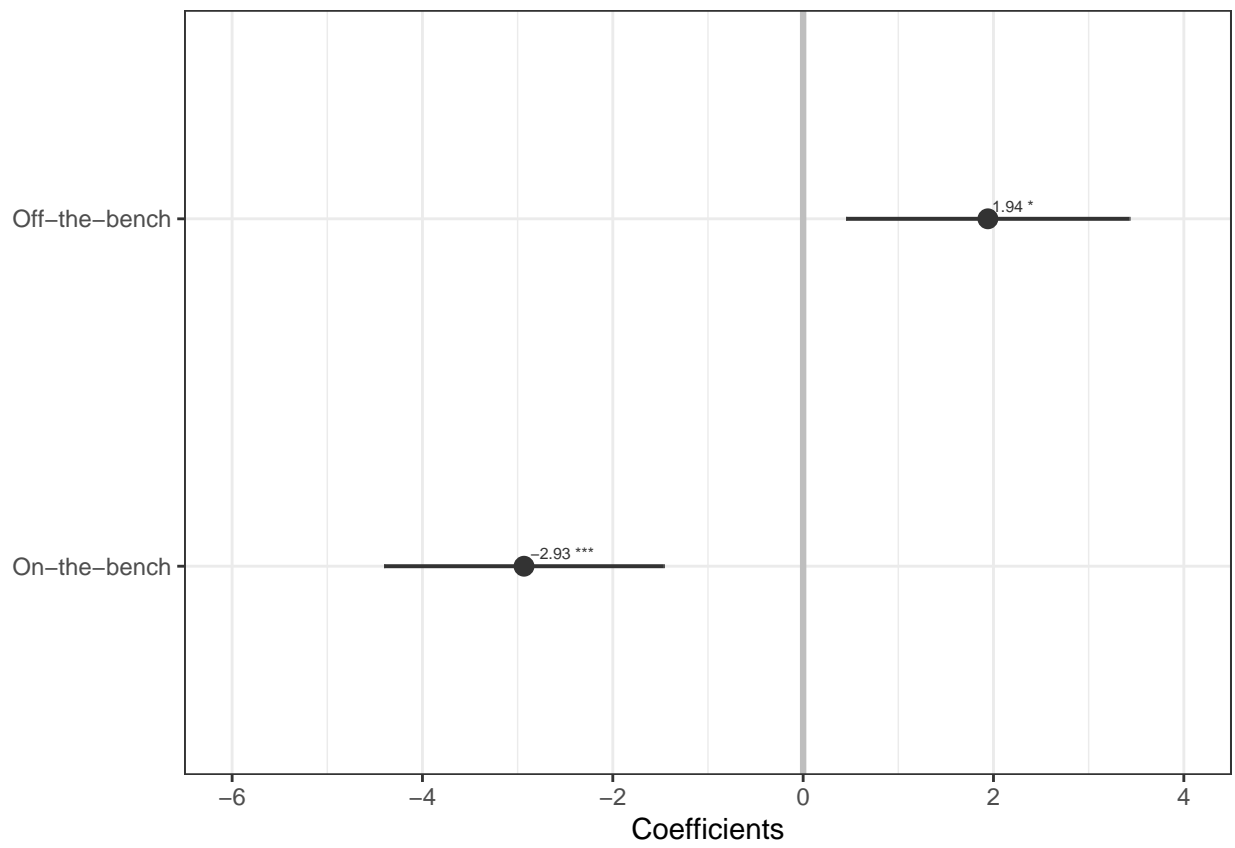
Figure 5: The effect of the proportion of off-bench and on-bench words in an article on relative Google Trends hits.

that *increases* in off-bench terms lead to an *increase* in Google Trends hits. Specifically, in the Justice Pariente example, there is an increase in two hits, which aligns with the average number of hits that one off-bench article can induce.

In contrast, there is a decrease of approximately 2.93 in Google Trends hits given the increase in off-bench terms in articles. Once again, for context, consider Ohio Supreme Court Justice Sharon Kennedy. On August 25, 2020, Justice Kennedy had three Google Trends hits without any new articles about her. On August 26, 2020, the court ruled that employees who provide drug test urine samples under direct observation cannot sue over an invasion of privacy, with Justice Kennedy writing the majority opinion. This example demonstrates that *increases* in on-bench stories lead to an *decrease* in Google Trends hits. In particular, the Justice Kennedy example shows an example of a decrease in three hits, which conforms with the coefficient for the on-bench news stories in the model.
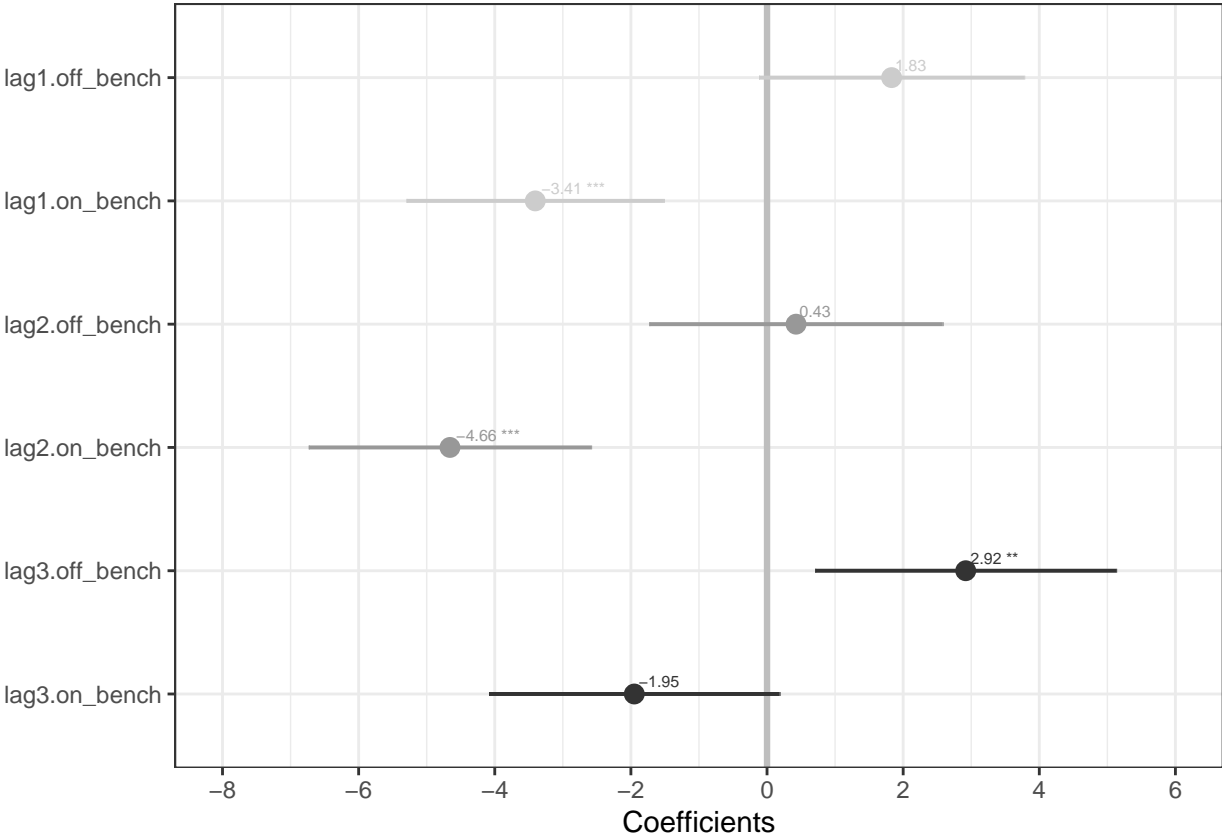

Figure 6: The effect of off-bench and on-bench articles on Google Trends hits with three-day lags.

Figure 6 shows the effect of an article on the subsequent three days. To do this, I lag the off-bench and on-bench variables for three days and observe whether the relationship between the lagged variables and the Google hits are substantively significant. The results are mixed. On-bench articles continue to decrease the number of hits, while off-bench articles indicate no substantive significance until the third day. For off-bench articles, it looks like public interest peaks on the third day. For on-bench articles, there is no substantive effect on on-bench articles on Google Trends hits on the third day. Based on the results, it looks like articles take some time to gain traction and interest. These results are not surprising. People email and text each other links to articles or share them on social media platforms, and their friends and families may open a tab on their browser to load the article but they do not read them until they have free time.
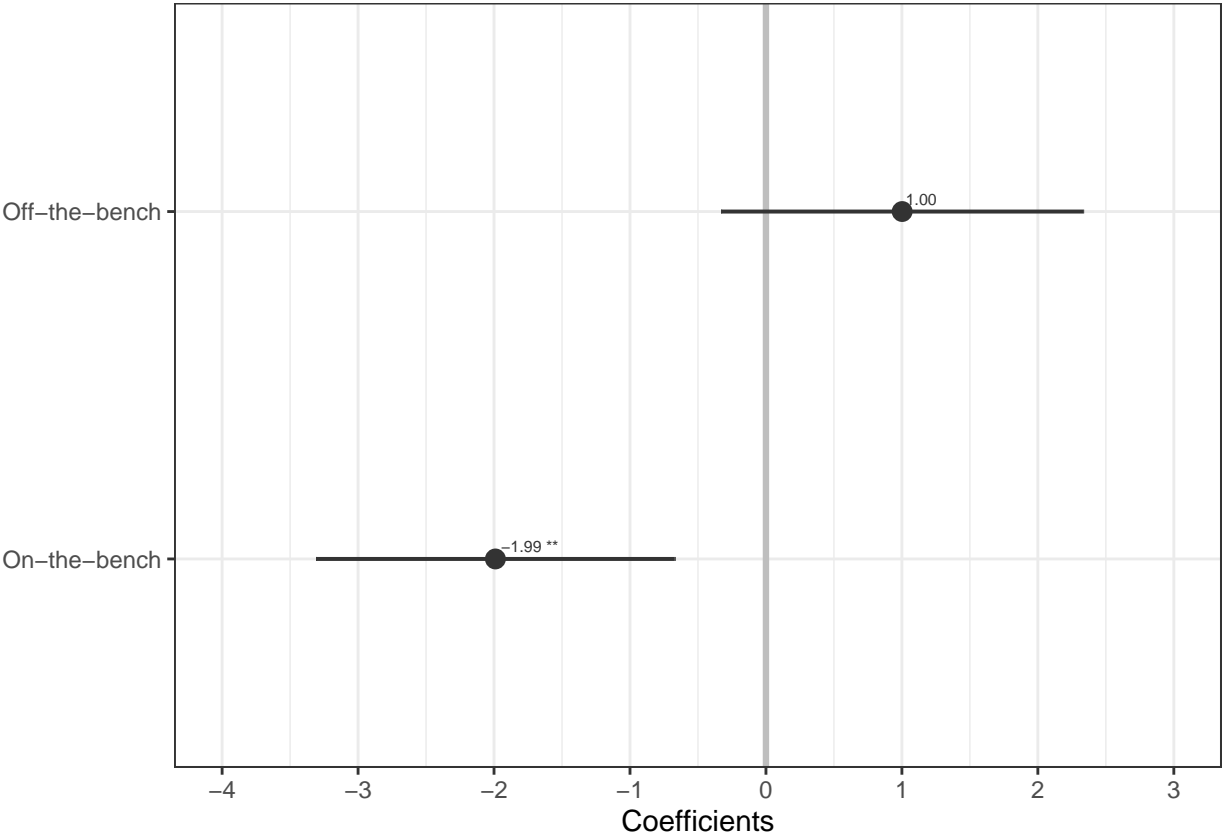

Figure 7: The effect of off-bench and on-bench articles on Google Trends hits when the surname is preceded by the word 'justice.'
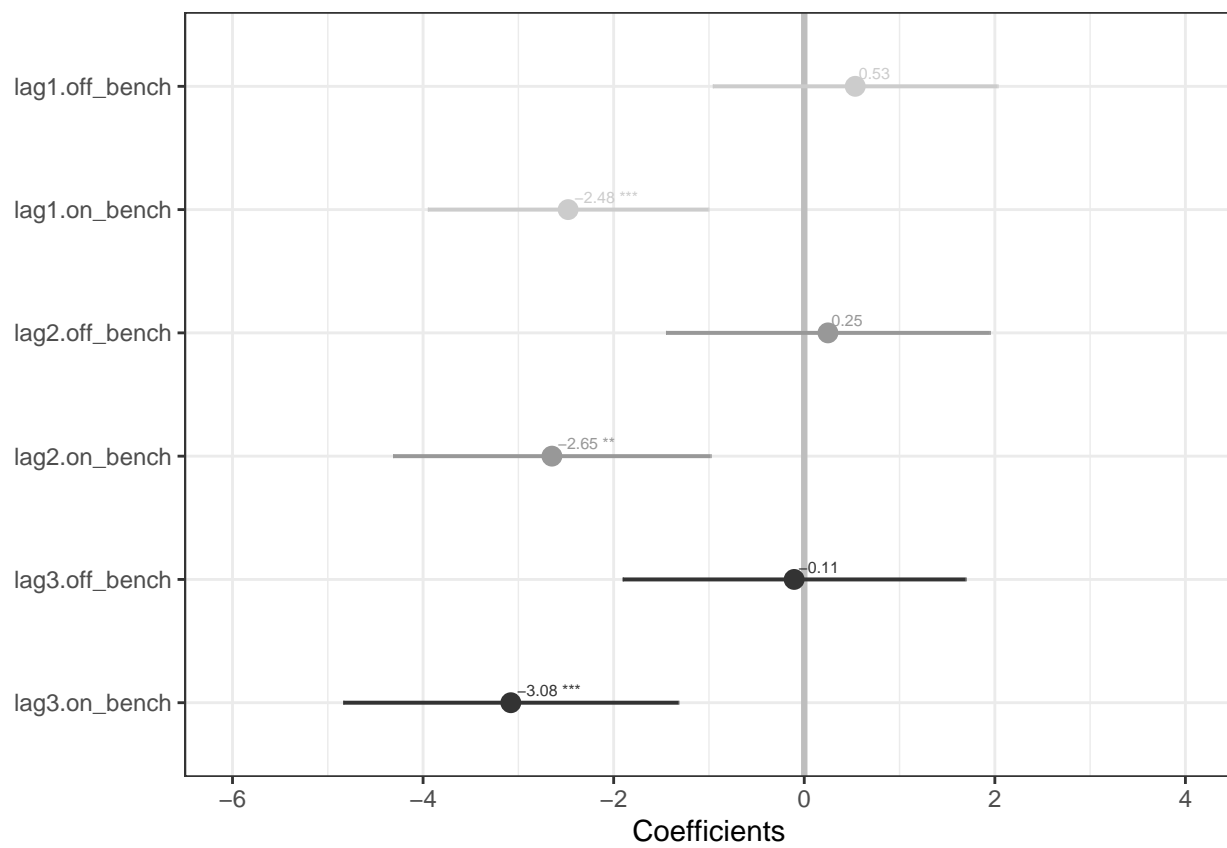
Figure 8: The effect of off-bench and on-bench articles on Google Trends hits with three-day lags when the surname is preceded by the word 'justice.'

Figure 7 shows the relationship between off-bench and on-bench articles and the popularity of the word "justice" preceding the justice's surname. When "justice" is the preceding term, off-bench articles have no effect on Google Trends hits. This diminished results regarding the off-bench articles when I only look at "justice" and "surname" of the justice is not surprising because most campaign materials about the justices mention the justices' full names. There is a decrease of approximately two in Google Trends hits given the increase in on-bench terms in articles. Compared to the effect of on-bench articles on the keyword search popularity of full names, there is an increase in one, meaning that people are more likely to search "justice" and "surname" when they read an off-bench article than they are when they encounter their full names. The lagged model in Figure 8 conforms with the results in Figure 7, but unlike the lagged models with the full names, the effects decrease for each subsequent day for both on-bench and off-bench articles.
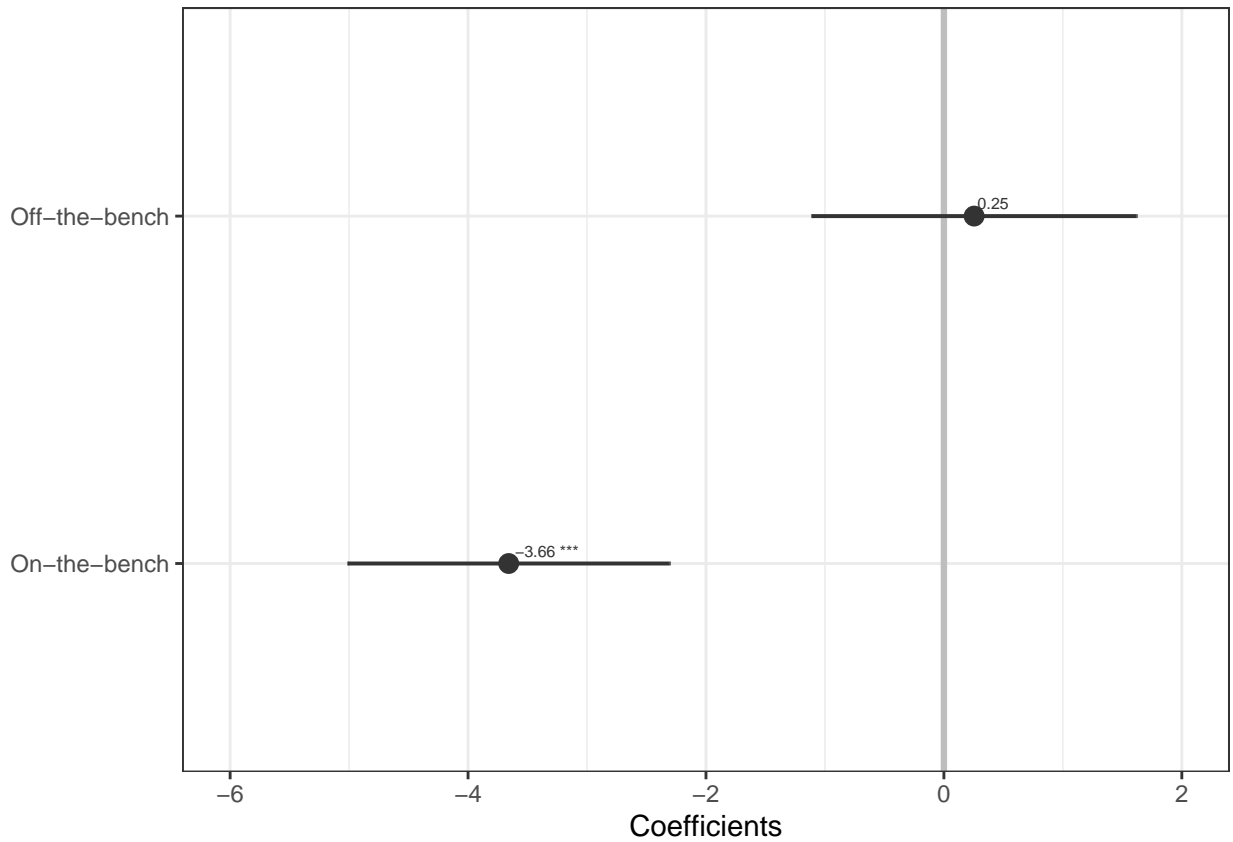

Figure 9: The effect of the proportion of off-bench and on-bench words in an article on relative Google Trends hits.
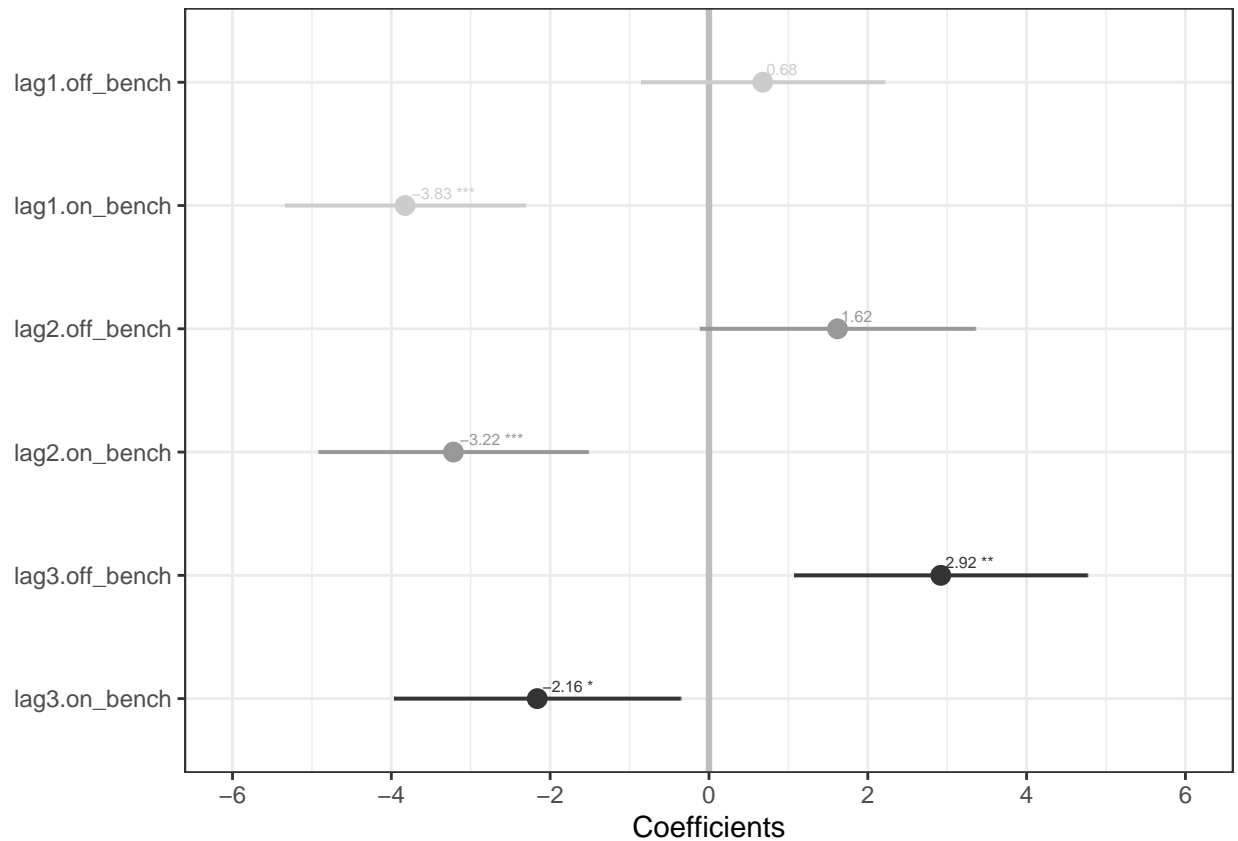
Figure 10: The effect of the proportion of off-bench and on-bench words in an article on relative Google Trends hits.

State supreme court justice are officially "justices" and not "judges." The only members on courts of last resort that are called "judges" are the judges on the Oklahoma and Texas Criminal Appeals Courts. Many people are unaware of this distinction. Figure 9 shows that when "judge" is the preceding term, there is no effect of off-bench articles on Google Trends hits. The off-bench articles diminish when I only look at "judge" and "surname" of the justice, which is not surprising because, like I mentioned before, most campaign materials often highlight the justice's full name. There is a decrease of approximately 3.66 in Google Trends hits given an increase in off-bench articles, meaning that even less people searched for the justice's surname with the word "judge" preceding the surname compared to variations of the justice's full name and the surname preceded by "justice." Interestingly, 10 shows that both on-bench and off-bench articles motivate people to Google "judge" and "surname" in

the subsequent three days. This behavior suggests that many of the off-bench and on-bench articles receive traction in subsequent days, and those who read the articles few days after the initial publication are motivated to search justices use "judge" and "surname" or their full names instead of "justice" and "surname."

Discussion

This paper suggests that the type of coverage a candidate receives is instrumental to motivating public interest. To better understand what attracts voters to learn more about judicial candidates, who are running in low-salience elections, this paper proposes evaluating news stories about the candidates through the lenses of off-bench and on-bench information conveyed in a news story. Parallel to the soft and hard news dichotomy, on-bench news takes on the flavor of what one would traditionally consider as hard news: stories about the justices carrying out the duties of their post. Off-bench news, conversely, are what one would traditionally consider as soft news: personality-driven stories about the justice as a candidate and public figure.

Results show that exposure to on-bench stories encourage public interest for incumbent judicial candidates running in a reelection or retention campaign. When faced with whether a justice should be able to keep her job, the public would be inclined to pay attention to the performance of the justice on the court. Only then can the public determine whether the justice should be able to keep the seat. After all, studies have shown that justices change their behaviors on election years to appeal to voters. The results, however, suggest that information about the performance of the justice on the bench affect public interest negatively. This could be due to the newsrooms being more interested in covering details about the case rather than the justices casting votes on the case. More specifically, though, this paper posits that in low-information and state-level elections, people gravitate towards narratives that spotlight the personalities of the candidates rather than the substance of their work.

So, in the case that a voter reads an article dominated by on-bench information, our theory suggests that she is more likely to search the case rather than the name of the justices.

These results have implications for understanding how the public translate information consumption into actual behavior related to judicial elections and low-information elections more broadly. In judicial elections, the public are interested in judicial candidates who serve as the center of personality-driven pieces. Instead of an article that focuses on the kind of justice the candidate is, the public is much more drawn to articles that focus on the kind of person the candidate is. This could be due to the limited legal expertise of the average voter, how voters separate judicial candidates from the cases they decide, the lackadaisical nature of media coverage of the courts, or simply, the lack of interest of the average voter when it comes to the business of the courts. Stories about the judicial candidate as a person, however, are easier to connect to and presents the candidate as not just an erudite public official who deals in dense legalese. These stories instead present a candidate associated with the sensationalism that surrounds a political campaign.

Research on low-information elections have often emphasized that the people who pay attention to these elections are people who have a stake in the outcomes. The average voter typically does not vote in school board elections unless he is a teacher or has children attending public schools, nor does she vote in the county sheriff election unless she has ties to local police or is involved in community advocacy. And, similarly, the average voter may not vote in state judicial elections unless she is passionate about certain issues that regularly come before the court. Many of these low-information elections have solely relied on stakeholders to participate in these elections, rather than the electorate at large. These results show that public engagement presents a double-edged sword. Divorcing the candidate from the mundane details of their record appears to attract more interest in the candidate, but this may also yield a less informed electorate. Participants in low-information elections must contend with this consequential cost of voter engagement.

The relationship between media coverage, campaign contributions, and public interest in

judicial politics offers many possibilities for future work. For one, the relationship can be further unpacked through an experiment where researchers ask respondents to learn more about certain candidates based on reading a profile about the candidate or reading about a case in which the candidate had cast a vote. Further, future work can also examine how individual characteristics, such as identity and position on the court, can influence voter interest and interact with media coverage. In sum, topics on media coverage and campaign contributions in the courts are ripe for future scholarly exploration.

This study probes at the implications of low-information elections through judicial elections. Judicial candidate, like most public officials, do not get a reliable flow of soft or hard national news coverage shared by the president or member of Congress. Given the relative obscurity of state and local officials, looking at whether the public gravitates towards the coverage of the behavior of the official carrying out the duties of their job versus the behavior of the official seeking reelection provides important insights into how the public, ranging from voters to donors, learn about and participate in low-information elections.

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