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**“Better Too Much Than Not Enough”:
The Nomination of Women of Color to the Federal Bench**

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It is well established that the federal judiciary has been an overwhelmingly White and male institution since its creation and continues to be so today. Even as presidents of both parties have looked to diversify their judicial nominees, this has tended to result in the appointment of White women and men of color rather than women of color. Using data on the confirmed federal district and circuit court judges from presidents Clinton through Trump, we assess how the backgrounds of women of color nominated to the federal judiciary compare with those of other appointees. The results indicate that, compared to White male judges, women of color judges accrue more types of professional experience before their appointments, are more likely to have had prior experience as a judge, and are generally nominated earlier in their careers.

“Better Too Much Than Not Enough”: The Nomination of Women of Color to the Federal Bench

It is well established that the federal judiciary has been and continues to be an overwhelmingly White and male institution (Millhisser 2019; Diascro and Solberg 2018). Even as presidents of both parties have looked to diversify their judicial nominees, they have tended to conceptualize diversification along a single dimension (i.e., gender or race) masking the intersection of the two. Past research on judicial appointment patterns has found that, when looking beyond White male nominees, presidents have tended to prioritize the nomination of White women and men of color over that of women of color (Haire and Moyer 2015; Jeknic, Solberg and Waltenburg 2021).

In this essay, we leverage an original dataset of judicial appointees to both the U.S. District Courts and U.S. Courts of Appeals to explore how the backgrounds of women of color appointed to the federal judiciary compare with those of other appointees, across four presidents, Clinton through Trump. Our aim is not to determine why some types of nominees are confirmed while others are not.¹ Rather, we argue that even though notions of ideal judging are conflated with the experiences of White men (Kirkpatrick 2020; Sen 2014), for other demographic groups, the White male baseline is a mere minimum. As we note below, our data show that the White male norm consists of only two types of experience: clerkship and private practice. As such, we expect that presidents utilize a strategy of selecting women of color who have longer resumes and who have “proved themselves” with prior judicial and/or other experiences beyond the White male baseline.

¹ We only include Article III judgeships from U.S. district courts and the U.S. Courts of Appeals, including the Federal Circuit. While the Federal Circuit has a narrower jurisdiction than the other 13 circuit courts, its judges, like all Article III judges, require presidential nomination and Senate confirmation, and provide for life tenure as well as salary security.

Our findings reveal that, compared to White male judges, women of color judges accrue more types of professional experience before their appointments, are more likely to have had prior experience as a judge, and are generally nominated earlier in their careers.

Assessing “Qualifications” Against a White Male Norm

Obtaining a seat on the federal bench is the apex of a judicial career, and the patterns found in terms of selection and confirmation mirror those found in management and human resources research, generally speaking. Scholars from these fields have found that non-White applicants fare worse than their White counterparts when applying for jobs and that gender can moderate the relationship between candidates’ perceived “riskiness” and their qualifications (Bendick et al. 1991; van Esch et al. 2018; Triana et al. 2021). A recent meta-analysis spanning two decades of field experiments on hiring and racial discrimination showed that Black and Latinx applicants receive fewer callbacks for employment than White applicants (Quillian et al. 2017). Similarly, women of color who aspire to become federal judges may be perceived as “risky” appointees and may be less likely to be appointed than comparably situated men.

For example, one important metric used in the federal judicial selection process is the rating system administered by the American Bar Association. Since Eisenhower, presidents have generally sent the ABA Standing Committee on the Federal Judiciary names of judicial nominees prior to formal nomination.² The committee screens potential nominees and, based on the evaluation, nominees are then ranked as either well qualified, qualified, or not qualified.

² Presidents George W. Bush and Trump each involved the ABA only after formal nomination. Although not included in our data, Biden is following this pattern.

However, the ABA ratings have been shown to be biased in ways that may systematically disadvantage non-White women nominees. For example, Sen (2014) found that, even after accounting for education, experience, and partisanship, district court nominees who were non-White or women were systematically rated lower, which reduced their likelihood of confirmation. This is consistent with earlier studies of federal appellate nominees that found evidence of gender and racial bias in ABA ratings (Haire 2001). Nominees assigned lower ratings tend to have a more difficult time with Senate confirmation, though the ratings are not correlated with judicial performance (Sen 2014).³

Unlike other hiring settings, presidents are not constrained by any official requirements regarding background or professional experience when making selections for federal judgeships,⁴ though there are norms that have developed over time.⁵ Because not all areas of the legal profession have been equally welcoming to women or to people of color, selecting nominees based on the types of career paths common among White men can be exclusionary in practice (Martin 2004). For instance, overt discrimination in private practice settings in the 1960s and 70s meant that these prestigious, well-paying jobs were largely reserved for White men. As a result, public sector jobs were often a better option for newly minted lawyers who did not identify as White men (Haire and Moyer 2015). Today, partner positions at private law firms are

³ Dancey, Nelson and Ringsmuth find that nominees rated lower face more questions related to their qualifications and are more likely to be considered controversial (2020).

⁴ Considerations related to selecting lower federal court nominees include the preferences of home state senators (Slotnick et al. 2017; Steigerwalt 2010), symbolic representation (Diascro and Solberg 2018), ideological or policy goals (Goldman 1997), and even partisan advantages related to diversity (Asmussen 2011).

⁵ For example, all federal judges confirmed during our time period graduated from an accredited law school, and the vast majority worked in private practice.

overwhelmingly White and male, as are general counsel positions at Fortune 500 companies (Nelson et al. 2019; NAWL 2020).⁶

Existing research suggests that presidents may hold women of color to a different standard when it comes to professional experience. Moyer (forthcoming) concludes that “prior judicial experience has been something like an unofficial requirement for women of color” on the federal appeals courts, consistent with the conclusions of other work (Haire and Moyer 2015; Martin 2004). Such an unstated requirement would be normatively problematic given the composition of both state and federal courts; notably, women of color are the most underrepresented race-gender group in state courts, relative to their share of the population, while White men are the most overrepresented group (George and Yoon 2017; Adelstein and Bannon 2021). Beyond prior judicial experience, prosecutorial experience was also more common for women of color than any other race-gender group appointed to circuit court positions by Clinton, Bush, or Obama (Moyer 2020). Taken together, this literature suggests that presidents may seek out non-White women with a greater breadth of professional experience than other groups. Such experience could serve as a counterweight to the perception of risk associated with selecting women of color. Therefore, we expect presidents to select women of color who have longer resumes and who have previously served as a judge.

H₁: *Non-White women judges will have a greater number of professional experiences than their White male colleagues.*

H₂: *Non-White women judges will be more likely to have judicial experience than White men.*

⁶ The same pattern repeats for clerkships. White men held the majority of federal clerkships (53% in 2016), and gains by women were largely limited to White women, with women of color holding less than 10% of federal clerkships (NALP 2017).

At the same time that non-White women may be perceived as less qualified, and therefore may feel pressure to bolster their resumes, they can also be fast-tracked to federal judgeships as presidents seek to diversify the bench. A common practice in the private sector, fast tracking refers to a process whereby organizations identify and advance candidates in an accelerated manner through a series of developmental opportunities to achieve higher level positions. Fast tracking can help companies achieve diversity goals for representation in management and other leadership positions. However, there are pitfalls to a speedy pipeline. Perceptions of the likelihood of derailment may be a self-fulfilling prophecy for underrepresented groups (Bono, et al 2016; Braddy, et al. 2019). Women and people of color may be perceived as risky investments precisely because they are fast-track candidates.

While delving into the intricacies of derailment is beyond the scope of this study, similar concerns apply to the judicial context. The legal profession's "leaky pipeline" (NAWL 2020) means that the pool of potential women of color candidates for a federal judgeship is small relative to that of White men, which creates incentives for presidents to identify potential nominees with fewer years of experience. The literature suggests that, to climb the judicial ladder, women of color may forgo depth of experience in favor of breadth, which may create other disadvantages for these individuals (Gulati 2013). In other words, women of color not only must have more types of experience before nomination to the federal bench, they must do so more rapidly than their counterparts. This gives an attorney or judge less time to make their mark and build a reputation that can smooth controversial confirmations.⁷

⁷ For these reasons, we do not characterize the fast-tracking phenomenon as an advantage but rather as a mixed bag for non-White women, as it may create other difficulties with a smooth confirmation process and reduce their lifetime earnings. With respect to the causal mechanism,

H3: *Non-White women judges will have practiced law for less time at than White men before nomination.*

So, what does it take for presidents to view a woman of color as sufficiently qualified to become a life-tenured federal judge? Below, we describe our dataset and our expectations.

Data and Variables

To investigate the experiential background of federal judges, we draw on data from the Federal Judicial Center (FJC) from the Clinton through Trump presidencies, a period of time in which women of color made relatively big gains compared to previous administrations. While only 15 women of color were confirmed during the Carter, Reagan, and first Bush administrations, the period of Clinton through Trump includes 97 women of color confirmed to the federal bench.⁸

[Table 1 here]

The FJC database includes a short biography of each confirmed judge that includes their previous work history, educational background, nomination information, and self-reported demographic identifiers. From this short vita, we coded their education and work experience into a series of variables, described in Table 1. Next, we used the professional experience variables to

the structure of our data do not allow us to assess whether the differences in career paths or career length are attributable to individual choice, systematic bias, or the intersection of the two.

⁸ While President Carter is often lauded for diversifying the federal bench (Martin 2004), this was mostly in appointing White women and non-White men (Haire and Moyer 2015). His two Republican successors, Reagan and G.H.W. Bush largely reverted to the previous norm of appointing white men (Goldman 1997). Thus, our time period spans almost thirty years but only includes four presidents, two from each party. Space limitations prevent a deeper dive into individual presidential cohorts. For more about presidential appointment trends on individual presidencies, see e.g., Slotnick, Schiavoni, and Goldman 2017; Jeknic, Solberg and Waltenburg 2021.

create an additive index, which reflects how long or short an individual's resume was upon nomination. The index simply marks whether the judge had each type of experience or not. Though the index does not capture the amount of time spent in each professional setting or if they served in this capacity in several venues (e.g., served as a state trial judge and then an appellate judge), it does allow us to measure the number of different types of experiences accumulated after law school (e.g., clerkship, private practice, and judgeship).⁹ To account for career length prior to nomination, we calculated the number of years from law school graduation (JD) to the year first nominated to the federal bench. The professional experience index ranges from a minimum of 1 to a maximum of 7 and has a mean of 2.7 types of experience. The career length variable has a mean of 24 years with a minimum of eight and a maximum of 45.

Defining the White Male Norm for Federal Judges

Because of the overall composition of the federal judiciary, we argue that the baseline against which women of color have been and continue to be compared is the professional experience of White men.¹⁰ On the professional index scale, White men average 2.6 types of experience and typically practice law about 25 years before they are (successfully) nominated.

Among the different types of professional experiences, one is ubiquitous for White men: private practice. While White men generally need more than private practice on their resume to

⁹ For clerkships or previous judicial experience, we count all types of experiences, and each type of experience is only counted once. For example, a judge who served as a clerk to a state trial judge and a judge who served as a clerk to a Supreme Court justice are both coded as having a clerkship. Similarly, a judge who served as a local judge and a judge that served as a federal magistrate are both coded as having previous judicial experience. Finally, a judge that held several clerkships only receives one point for clerking. We make no distinctions based on the prestige of the clerkship or judicial position or the length or scope of experience.

¹⁰ Fifty-four percent of the federal judges nominated from Clinton through Trump were White men.

become federal judges, there is no other type of experience that is more common among or dominated by this group. When comparing across groups, 93% of White men had worked in private practice, compared to 79% for non-White women, 87% for White women, and 85% for non-White men. The difference between White men and non-White women is statistically significant.¹¹

The literature suggests that clerkships should also be especially common among White men. However, in our data, this appears to be a weaker norm than that of private practice experience. Forty-seven percent of White men had clerkship experience, lagging slightly behind White women (53%). Among the appellate judges in our data, the rates of clerkship experience for White men and White women are virtually identical (about 66%).¹² Beyond private practice and clerkships, no other type of professional experience—including judgeships or prosecutorial experience—were especially common among White men. In sum, a typical White male federal judge has worked in private practice, served as a clerk, and worked about a two-and-a-half decades before nomination.

[Figure 1 here]

How do non-White women stack up against these norms over time? Figure 1 shows that while the percentage of White men with private practice experience has not varied much across appointment cohort, the share of non-White women with this type of experience increased with the Obama cohort and remained relatively high during the Trump years. The share of White men

¹¹ Using a two-sample test of proportions to assess statistical significance, the difference between White men and White women or non-White men is also significant. However, the differences between White women, non-White men, and non-White women are not.

¹² However, White men are the race-gender group most likely to have served in the most prestigious clerkships: those at the Supreme Court.

who served as clerks increased steadily over that period, while Clinton and Trump both appear to have sought out more non-White women with clerking experience than Bush or Obama. If presidents rely on a White male norm of experience for judicial nominees, private practice and, to a lesser extent, clerkship experience may be increasingly expected of women of color.

Women of Color and Longer Resumes

Hypothesis 1 predicts that non-White women selected as federal judges will have more types of experience on their resumes than similarly situated White male judges. Compared to other groups, a larger share of White men (15%) have only one type of professional experience before becoming a federal judge, a rate more three times higher than that of non-White women (see the Supporting Information). On the other end of the scale, a higher percentage of non-White women (9.7%) have five or more types of experiences, compared to White men (4%). While most judges fall somewhere in the middle of the professional experience index, this does suggest that non-White women are overrepresented among those with longer resumes.

[Figure 2 here]

Next, we graphed the mean index value for race-gender groups over time, so that differences across presidential appointment cohorts could be observed. (See Figure 2.) For White men, there is a small, steady increase in the mean levels of professional experience over time, regardless of appointing president. Looking at non-White women, Clinton appointees tended to have more types of professional experience than was typical under either Bush or Obama, but the trend reverts to higher levels during the Trump years. There is a similar dip in experience for White women, but for non-White men, there is little variation in the average level of professional experience.

To supplement these descriptive analyses, we constructed an ordered logit model of professional experience.¹³ Because there are relatively few observations at the upper end of the professional experience index, we collapsed all observations where there more than 5 types of experience into a single category, making this a five-category variable. To facilitate comparisons between women of color and other groups, we set non-White women as the excluded, reference category for the gender-race variables. Lastly, we include controls for ABA rating, law school quality, party of nominating president, career length, and level of court (district or appellate).¹⁴

[Figure 3 here]

The results shown in Figure 3 offer strong support for our hypothesis that women of color judges will have longer resumes than White men. The coefficient for White men is negative and significant ($p < .001$), indicating that this group has fewer professional experiences than women of color. Interestingly, there are no statistically significant differences in experience between non-White women and other comparator groups.¹⁵

Judicial Experience as Prerequisite

Next, to test Hypothesis 2, we model the likelihood that non-White women will have prior judicial experience before being confirmed to the federal bench, again excluding those judges who were elevated and using the same battery of controls. In Figure 4 (left panel), the results indicate strong support for our hypothesis. White men are significantly less likely to have

¹³ We limit our analysis to district and circuit judges who have not been elevated. Full model results appear in the Supporting Information.

¹⁴ For the ABA rating, we follow the Federal Judicial Center coding scheme, which only reports the majority rating (i.e., no split ratings are included).

¹⁵ Rotating the excluded reference category (not shown) reveals that White women and non-White men also are significantly more likely to have higher levels of professional experience than White men.

previous judicial experience than non-White women.¹⁶ Comparing the predicted probabilities (Figure 4, right panel) shows the stark differences here. For a Democratic district court appointee who is rated well-qualified by the ABA, graduated from a top law school, and has the average career length, the probability of prior judicial service is .61 for a non-White woman. The probability drops to a staggering .31 for a White man. The same results also hold when we limit the analysis to those with state court experience.

[Figure 4 here]

The Fast Track

Lastly, Hypothesis 3 anticipates that non-White women will be on a “fast track” to joining the federal bench.¹⁷ Here, we estimate separate OLS models of career length for district court judges, circuit court judges who were not elevated from district court, and elevated circuit court judges. In this mode, we add the professional experience index to the set of control variables.

[Figure 5 here]

Beginning with the district court model, White men have 3.5 more years in the profession than non-White women, consistent with our expectations. While the differences between non-White women and the other groups are not significant, we do see that judges nominated by Democratic presidents had about a year more of experience than those nominated by Republican presidents. Among the circuit court judges who were elevated from district court (N = 63), women of color appear to be on a fast track compared to members of other gender-race groups.

¹⁶ Non-White women are also significantly more likely to have state court and U.S. attorney experience than White men (see the Supporting Information for alternative specifications).

¹⁷ To be clear, we are not measuring the time from a president’s nomination to confirmation, but rather the number of years from completing the JD until the individual is nominated successfully to the federal bench.

Non-White men wait almost 8 years longer to be elevated, while White men wait a little more than 6 years longer before they are elevated to an appeals court position. With respect to circuit court appointees who were not elevated to their positions, there is no significant difference in career length between White men and non-White women. However, non-White men appear to be fast tracked relative to non-White women, spending five fewer years practicing law than non-White women before they are nominated to a federal appeals court.

In a final comparison, we examined appellate judges who were elevated from the district courts versus those whose first Article III appointment was to the U.S. Courts of Appeals. For most demographics, those who were elevated had similar years of experience prior to elevation, but the difference for non-White women is dramatic. For example, White women averaged a little over 23 years in their career before initial appointment and about a year more if they were elevated to the appellate bench. In contrast, non-White women worked almost six years *less* if they were elevated, revealing a distinct fast track when compared to their counterparts.

Conclusions

Being selected to serve as a federal judge is a prestigious accomplishment, particularly as presidents increasingly view these appointments as policy statements and as Senate obstruction and delay has increased (Steigerwalt 2010; Slotnick et al. 2017; but see Dancey, Nelson, and Ringsmuth 2020). This study identifies several ways in which non-White women judges' careers differ systematically from those of White men, the overrepresented demographic group in the federal judiciary. Do these differences represent opportunities or obstacles? The answer is complicated.

We found that women of color are, on average, appointed earlier in their careers than White men, but they also have accumulated a more diversified set of professional experiences.

On its face, this seems to be an impressive feat, though these differences do vary somewhat by president. Overall, we found that women of color are nominated to district court positions and elevated to circuit court seats earlier in their careers than White men. We speculate that this “fast track” is due to the scarcity of non-White women in the legal profession, but we encourage more work to examine how this trend intersects with party priorities in nominations. To wit, non-White women who are nominated by Republican presidents to a circuit court seat (without first serving as district court judge) have about 4 more years of experience under their belts than their White male peers, which may say something about the pool of conservative, non-White women. It is also possible that these patterns may be related to the size of the courts. Larger courts tend to diversify more quickly compared to smaller courts (Haire and Moyer 2015), so future work could take a court-by-court approach to unpack these patterns further.

On average, women of color bring more types of professional experiences to the federal bench than any of the other gender-race groups we have considered.¹⁸ However, the differences here also vary by party. Under Republican presidents, non-White appointees have more types of experience than White appointees, regardless of gender; both non-White men and women average more than 3 types of professional experiences, while White men and women average 2.6 and 2.7 types, respectively. On the Democratic side, White men have fewer different types of professional experiences (2.48) than other gender-race groups, who each average about 2.9 on the index. To view how the distribution of professional experience has shifted under different presidents, Figure 6 shows histograms of the professional experience index across presidential

¹⁸ On the professional experience index, the mean number of experience types for all White men is 2.58, 2.84 for all White women, 2.91 for all non-White men, and 2.98 for all non-White women. Figures comparing professional experience by party are shown in the Supporting Information file.

appointment cohort. Of course, it is important to emphasize that these comparisons are based upon only two Democratic and two Republican presidents and may differ with the inclusion of, say, Biden's appointees.

[Figure 6 here]

The history of exclusion from and, later, barriers to entering the legal profession are responsible for the continued underrepresentation of those who do not identify as White men among lawyers and judges. The sources of this underrepresentation have limited the career choices available to women of color. And it may also be driving their quicker path to the federal bench. However, this fast track could create concerns about the depth of appointees' experience, leading to more scrutiny in the Senate confirmation process, lower ABA ratings, or both. Though this study has focused on successful nominations, future research might consider the impact of these differences in career length on the confirmation process.

The combination of the "fast track" and an expectation for a longer resume also suggests that non-White women must fit in more types of experience into a shorter period of time than White men before nomination. While future research should unpack this finding more fully (and consider the amount of time in each type of job setting), it may impact the lifetime earnings of women of color. Generally, private practice is the most lucrative of legal professions, and we find that this experience is consistently the norm for White male appointees. In contrast, there appears to be an unofficial norm of prior judicial experience for non-White women federal judges, which means that non-White women have to step away from more lucrative practice areas to run for more poorly compensated state or local judicial seats before being viewed as viable candidates for federal judgeships. It is also possible that the differences in private practice

experience reflect persistent problems with climate that drive women of color out of large firms (Peery, Brown, and Letts 2020) and into other types of work settings.

Although non-White women have clearly made inroads at all levels of the legal profession, we find that the pathways for becoming Article III judges differ from those of their White counterparts, particularly White men. To be clear, because our data include only confirmed judges, we are unable to disentangle whether these observed differences are attributable to presidents' decisions to select nominees with particular professional and educational backgrounds, to individual choices in career paths, or to a combination of both. Earlier studies noted that, due to overt discrimination, women and non-White lawyers took a different pathway to become judges, often denoted as "nontraditional" careers. As these barriers are reduced or fall, it is clear that new, unstated expectations have been established. This study takes a first step at unmasking these previously unrecognized barriers to women of color as they navigate the current pathways of success.

References

- Adelstein, Janna and Alicia Bannon. April 20, 2021. "State Supreme Court Diversity—April 2021 Update." Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/state-supreme-court-diversity-april-2021-update>
- Asmussen, Nicole. 2011. "Female and Minority Judicial Nominees: President's Delight and Senators' Dismay?" *Legislative Studies Quarterly* 36(4): 591-619.
- Bendick Jr, Marc, Charles W. Jackson, Victor A. Reinoso, and Laura E. Hodges. 1991. "Discrimination against Latino job applicants: A controlled experiment." *Human Resource Management* 30(4): 469-484.
- Bono, Joyce E., Phillip W. Braddy, Yihao Liu, Elisabeth K. Gilbert, John W. Fleenor, Louis N. Quast, and Bruce A. Center. 2017. "Dropped on the way to the top: Gender and managerial derailment." *Personnel Psychology* 70(4): 729-768.
- Braddy, Phillip W., Rachel E. Sturm, Leanne Atwater, Scott N. Taylor, and Rob Austin McKee. 2020. "Gender bias still plagues the workplace: Looking at derailment risk and performance with self–other ratings." *Group & Organization Management* 45(3): 315-350.
- Dancey, Logan, Kjersten R. Nelson, and Eve M. Ringsmuth. 2020. *It's Not Personal: Politics and Policy in Lower Court Confirmation Hearings*. Ann Arbor, Michigan: University of Michigan Press.
- Diascro, Jennifer and Rorie Spill Solberg. 2018. "A Retrospective on Obama's Judges: Diversity, Intersectionality and Symbolic Representation." *Politics, Groups, and Identities* 8(3): 471-487.
- George, Tracey E. and Albert H. Yoon. 2017. "Measuring Justice in State Courts: The Demographics of the State Judiciary." *Vanderbilt Law Review* 70: 1887-1910.
- Goldman, Sheldon. 1997. *Picking Federal Judges: Lower Court Selection from Roosevelt through Reagan*. New Haven, Conn.: Yale University Press.
- Gulati, Daniel. March 14, 2013. "Stop Fast Tracking Your Career." *Harvard Business Review*. <https://hbr.org/2013/03/stop-fast-tracking-your-career>
- Haire, Susan Brodie. 2001. "Rating the Ratings of the American Bar Association Standing Committee on Federal Judiciary." *Justice System Journal* 22(1): 1-17.
- Haire, Susan B. and Laura P. Moyer. 2015. *Diversity Matters: Judicial Policy Making in the U.S. Courts of Appeals*. Charlottesville, VA: University of Virginia Press.
- Jeknic, Petar, Rorie Spill Solberg, and Eric N. Waltenburg. 2021. Open Judicial Politics Reader, 2nd edition. <https://open.oregonstate.education/open-judicial-politics/>.

- Kirkpatrick, Jennet. 2020. "Fairness has a face: neutrality and descriptive representation on courts." *Politics, Groups, and Identities* 8(4): 803-811.
- Martin, Elaine. 2004. "Gender and presidential judicial selection." *Women & Politics* 26(4): 109-129.
- Millhiser, Ian. 2019. "The Absurd Whiteness of America's Court System, in 2 Charts." Vox, <https://www.vox.com/policy-and-politics/2019/10/3/20893643/whiteness-federal-judiciary-diversity-obama-trump>
- Moyer, Laura. Forthcoming. "Assessing President Obama's Appointment of Women to the Federal Appellate Courts." *British Journal of American Legal Studies*.
- National Association of Women Lawyers. 2020. "2020 Survey Report on the Promotion and Retention of Women in Law Firms." <https://www.nawl.org/p/cm/ld/fid=2019>
- Nelson, Robert L., Ioana Sendroiu, Ronit Dinovitzer, and Meghan Dawe. 2019. "Perceiving Discrimination: Race, Gender, and Sexual Orientation in the Legal Workplace." *Law & Social Inquiry* 44(4): 1051-1082.
- Peery, Destiny, Paulette Brown, and Eileen Letts. 2020. "Left Out and Left Behind: The Hurdles and Hassles of Achieving Long-Term Legal Careers for Women of Color." *American Bar Association*. <https://www.americanbar.org/products/inv/book/401210758/>
- Quillian, Lincoln, Devah Pager, Ole Hexel, and Arnfinn H. Midtbøen. 2017. "Meta-analysis of field experiments shows no change in racial discrimination in hiring over time." *Proceedings of the National Academy of Sciences* 114 (41): 10870-10875.
- Sen, Maya. 2014. "How judicial qualification ratings may disadvantage minority and female candidates." *Journal of Law and Courts* 2(1): 33-65.
- Slotnick, Elliot, Sara Schiavoni, and Sheldon Goldman. 2017. "Obama's Judicial Legacy: The Final Chapter." *Journal of Law and Courts* 5(2): 363-422.
- Steigerwalt, Amy. 2010. *Battle over the bench: Senators, interest groups, and lower court confirmations*. Charlottesville, VA: University of Virginia Press.
- Triana, María del Carmen, Pamela Gu, Olga Chapa, Orlando Richard, and Adrienne Colella. 2021. "Sixty years of discrimination and diversity research in human resource management: A review with suggestions for future research directions." *Human Resource Management* 60(1): 145-204.
- van Esch, Chantal, Margaret M. Hopkins, Deborah A. O'Neil, and Diana Bilimoria. 2018. "How perceived riskiness influences the selection of women and men as senior leaders." *Human Resource Management* 57(4): 915-930.

Table 1: Variables

Variable name	Description
Gender-race	Categorical variable that indicates whether judge was a White man, White woman, Non-White man, or Non-White woman.
Law school quality	1= Top 20 law school; 2=State flagship; 3=Lower tier law school (categories are mutually exclusive)
ABA rating	1 = Not Qualified; 2 = Qualified; 3 = Well Qualified
Career length	Number of years from JD to first successful nomination year
Private practice	Worked in a private law firm (0,1)
Clerk experience	Experience as a law clerk at any level (0,1)
U.S. Attorney	Service as either a U.S. Attorney or an Assistant U.S. Attorney
State prosecutor	Experience as a state or local prosecutor
State court	Experience as a state court judge (includes municipal judges)
Non-Article III judge	Experience as a federal magistrate or bankruptcy judge
Elevate	Elevated from district court to circuit court seat
Professional experience index	Additive index of the following variables: <ul style="list-style-type: none"> ▪ Private practice ▪ State prosecutor ▪ U.S. Attorney ▪ Non-Article III judge ▪ State court judge ▪ Public defender ▪ Corporate counsel ▪ Law clerk ▪ Academic ▪ Nonprofit ▪ Solicitor General ▪ Elevate
Court level	Nominated to district court seat or circuit court seat
Democrat	Nominated by a Democratic president (1) or a Republican president (0)

Notes: Demographic and background attributes drawn from the Federal Judicial Center (2021).

Figure 1: Types of Experiences Typical for White Male Judges

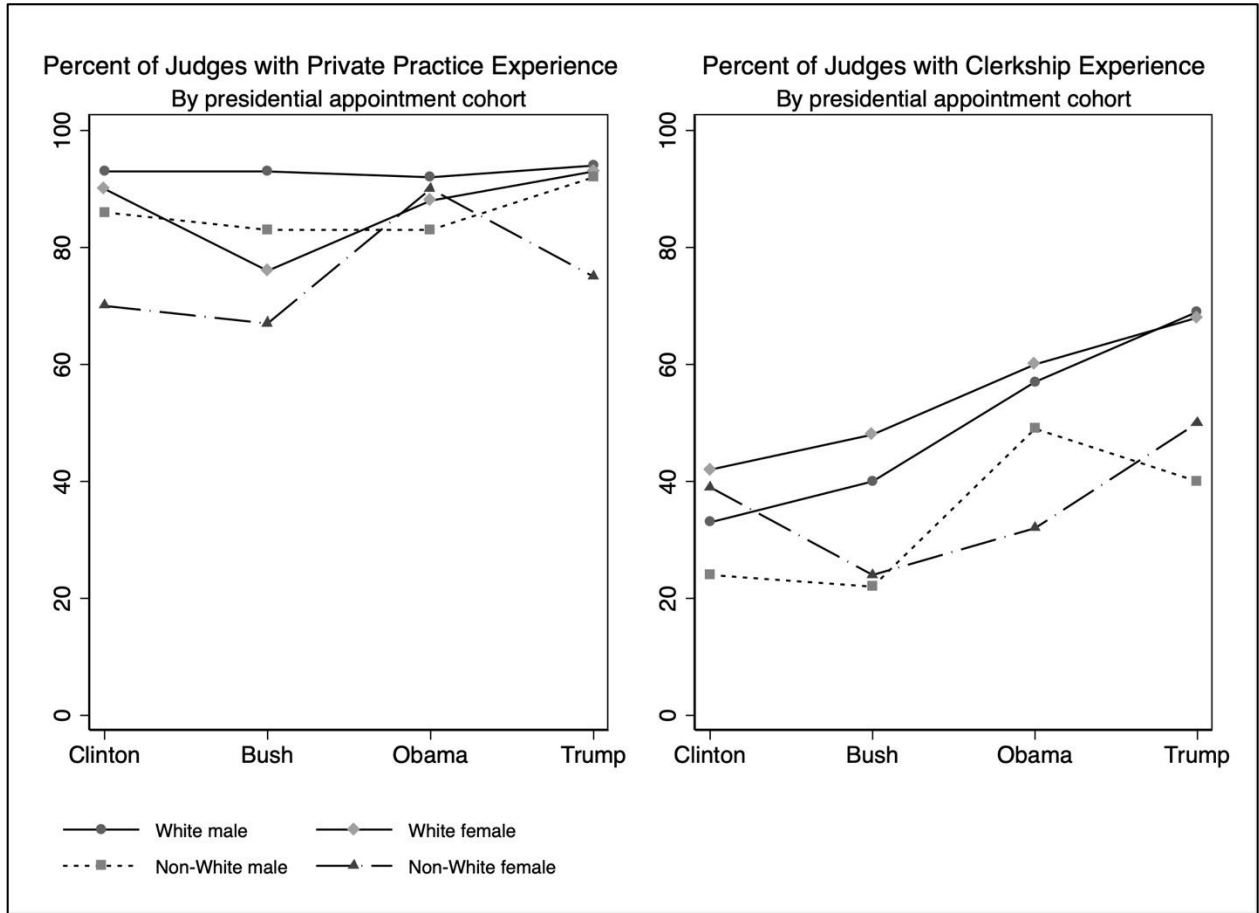
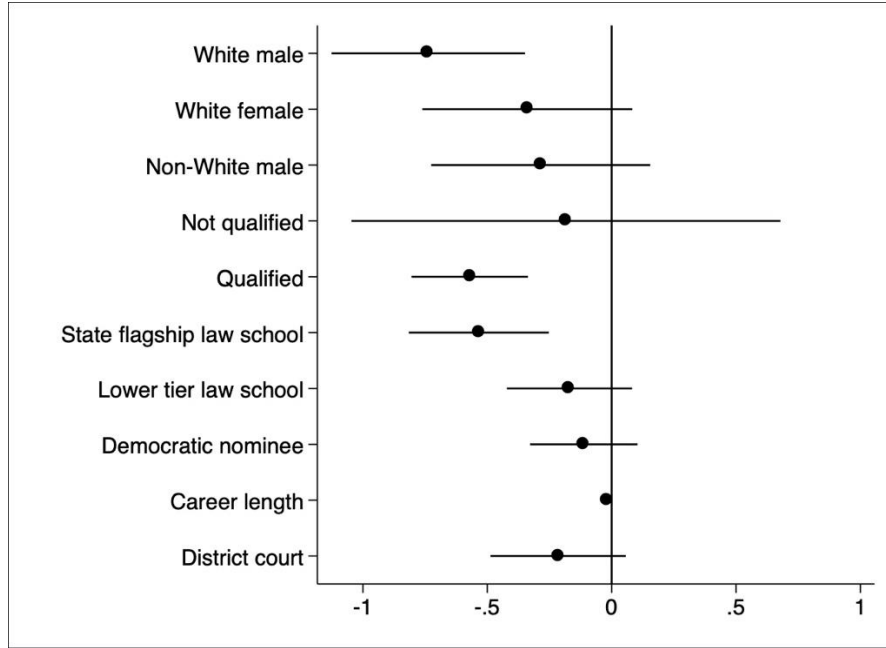


Figure 2: Variation in Professional Experience by Group

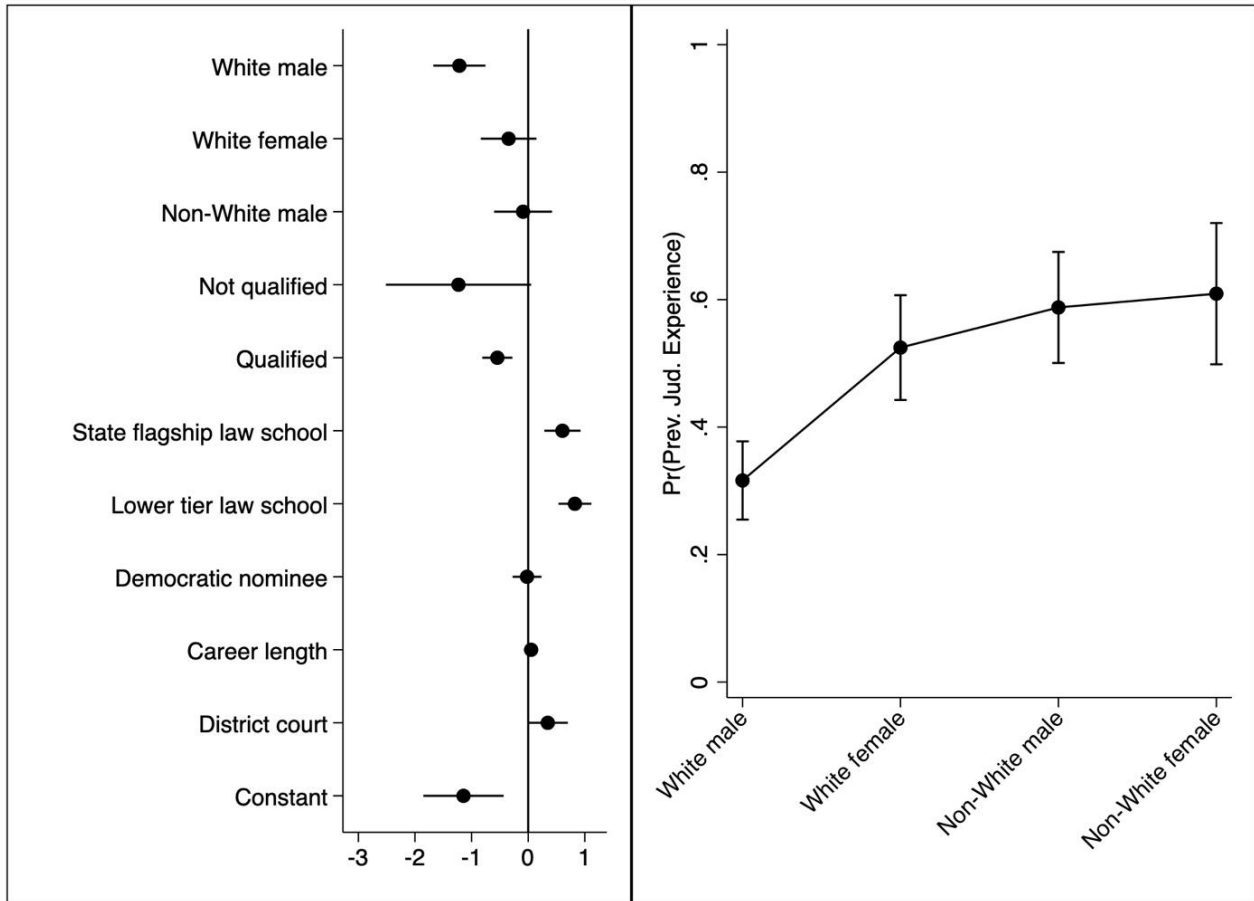


Figure 3: Ordered Logit of Professional Experience



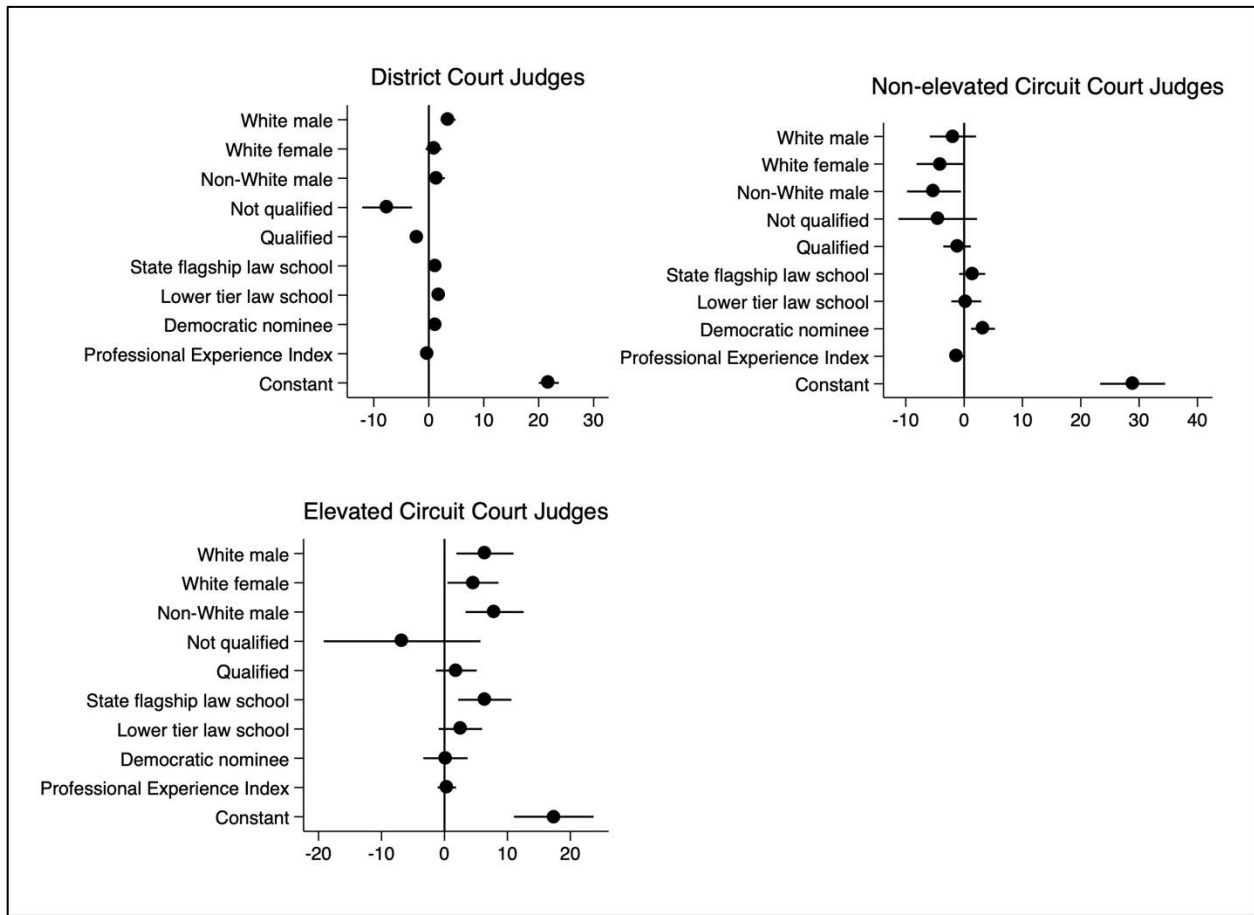
Notes: N = 1172. Plot shows coefficients and 95% confidence intervals. Non-White female is the excluded reference category for Gender-Race. Well Qualified is the excluded category for ABA rating, and Top 20 law school is the excluded category for Law School Quality. See Supporting Information for full results.

Figure 4: Logit of Prior Judicial Experience and Predicted Probabilities



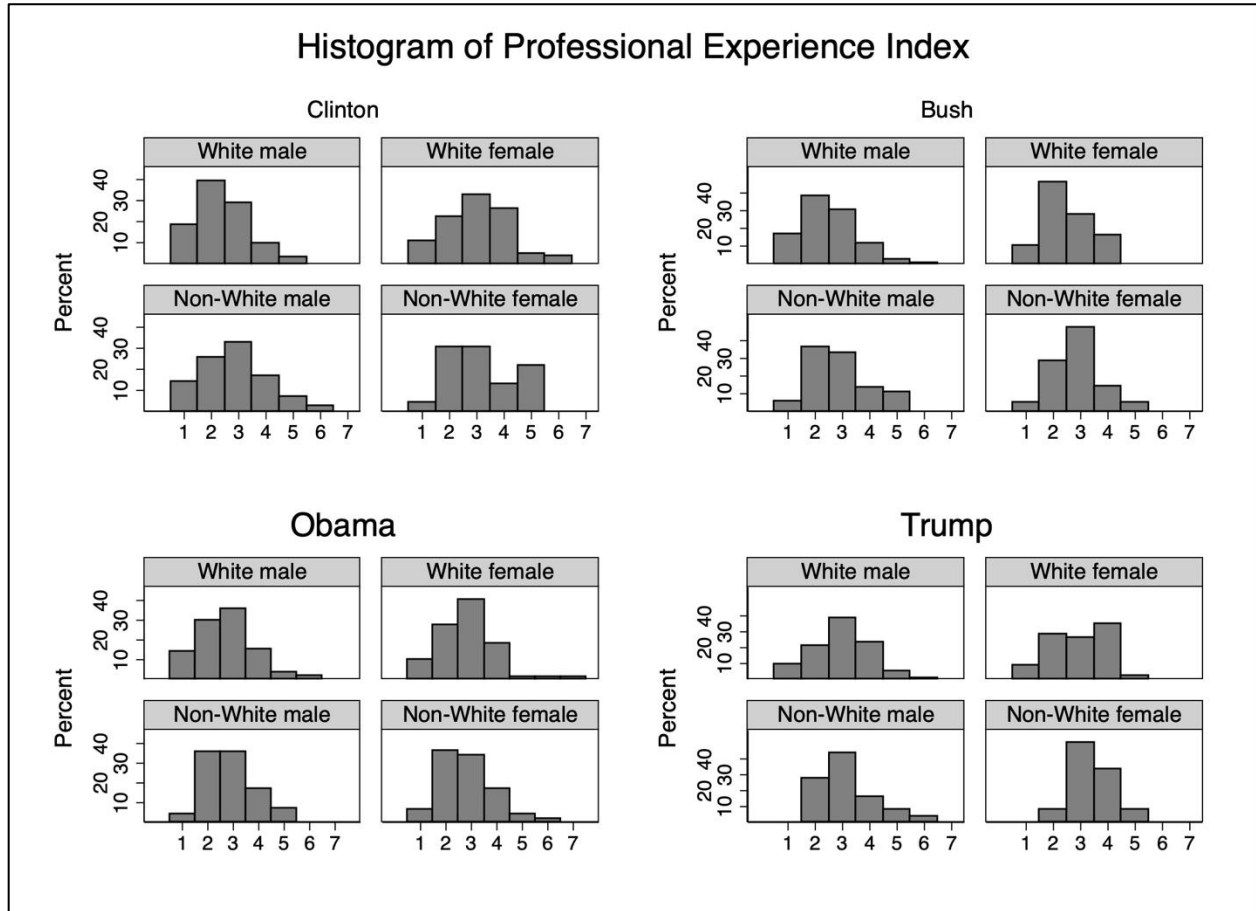
Notes: N = 1172. Left-side plot shows coefficients and 95% confidence intervals. Non-White female is the excluded reference category for Gender-Race. Well Qualified is the excluded category for ABA rating, and Top 20 law school is the excluded category for Law School Quality. See Supporting Information for full results. Right-side plot shows predicted probabilities of previous judicial experience generated from the logit model.

Figure 5: OLS Regression of Career Length Before Nomination



Notes: Plot shows coefficients and 95% confidence intervals. N = 1001 for district court judges model ($R^2 = .1063$). N = 171 for non-elevated circuit court judges model ($R^2 = .1508$). N = 63 for elevated circuit court judge model ($R^2 = .294$). Non-White female is the excluded reference category for Gender-Race. Well Qualified is the excluded category for ABA rating, and Top 20 law school is the excluded category for Law School Quality. See Supporting Information for full results.

Figure 6: Trends in Professional Experience by Presidential Appointment Cohort



Notes: The full 7-category professional experience index, rather than the collapsed 5-category version used in the ordered logit model, is shown.