Confirmation Wars and Collateral Damage: Assessing the Impact of Supreme Court Nominations on Presidential Success in the U.S. Senate

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Abstract

Recent scholarship on nomination politics demonstrates that presidents often spend time, resources and attention (or "political capital") promoting their Supreme Court nominees. Some of these studies speculate that expenditures of political capital on Supreme Court nominees affect presidential success beyond the confirmation process. However, whether political capital spent on a Supreme Court nomination affects anything other than the confirmation vote has not been established. We argue that the amount of political capital spent on a Supreme Court nomination has significant consequences for the president's legislative agenda and his ability to fill lower-level judicial vacancies. We develop and test a relative effort hypothesis stating that presidents' vigorous advocacy for their Supreme Court nominees delays or derails their efforts to achieve other political goals. We test our theory using data on presidential policy agenda items from 1967-2010 and all lower-level judicial nominations from 1977-2010. Our findings indicate that the relative effort made to promote confirmation reduces the likelihood of Senate approval of important policy proposals and nominees to the federal district courts.

On April 4, 2010, Justice John Paul Stevens announced his intention to leave active service on the Supreme Court of the United States. Many observers predicted that the president would nominate a moderate successor to Stevens (e.g. Baker 2010a; Stolberg and Savage 2010) in order to minimize the the time, resources, and attention (or "political capital") necessary to achieve confirmation. This would minimize the amount of effort he would invest in a Supreme Court nominee and enable him to devote his finite time and attention to other agenda items. Midterm elections were seven months away and many of the administration's legislative priorities and nominations were still being considered in the Senate.[1] Among the most important of these legislative priorities was immigration reform. On April 13, Senate Majority Leader Harry Reid (D-NV) declared his intention to pass an immigration reform bill before the election and that he would not "let excuses like a Supreme Court nomination get in the way" (Bendery 2010).[2] Hundreds of presidential nominations – including several dozen to lower federal courts – were also on the Senate calendar.[3]

Obama announced on May 10, 2010, that Solicitor General Elena Kagan was his choice to succeed Justice Stevens. Kagan was viewed as one of the more ideological centrist candidates under consideration.[4] Indeed, the decision led some liberals to voice concerns that Kagan was not sufficiently liberal enough to replace Stevens (Baker 2010b). Ultimately, Kagan was confirmed by the Senate in just under three months.[5]

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[1]The legislative priorities still pending included a 100 billion dollar measure to expand tax and unemployment benefits, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Supplemental War Spending Act, an emergency jobs appropriation and an energy and climate bill (Brady and Dennis 2010).

[2]Congressman Luis Gutierrez (D-IL) argued that the bill's passage would be important to vulnerable Democrats seeking to court Latino voters. Gutierrez – the chairman of the Congressional Hispanic Caucus' immigration task force – noted that "[Latinos] can simply stay home [during the election], and that, to me, seems to be an option that is there (Hunter 2010)."

[3]Of the non-judicial nominations pending, the high profile nomination of General David Petraeus to become the U.S. military commander in Afghanistan was expected to consume a great deal of time as well (Brady and Dennis 2010).

[4]Two other nominees the president was reported to have considered – Judge Sidney Thomas of the Ninth Circuit Court of Appeals and Judge Diane Wood of the Seventh – had more liberal reputations and credentials (Kornblut and Barnes 2010).

[5]On July 20, 2010, she was confirmed by the Judiciary Committee on July 20, by a vote of 13 to six. Only Senator Lindsey Graham (R-SC) crossed party lines and supported the nomination in committee). Two weeks later, on August 5, she was approved by the full Senate by a vote of 63 to 37. Graham was joined by Republican senators Olympia Snowe (R-ME), Susan Collins (R-ME), Judd Gregg (R-NH) and Richard Lugar (R-IN) in supporting Kagan. Senator Ben Nelson (D-NE) was the only Democrat to oppose

The Kagan nomination and senators' responses to it demonstrate several key points about the modern Supreme Court confirmation process. First, the process can be highly contentious. Scholars have characterized it as a "war" (Gerhardt 2002) and "major battleground" for presidents (Davis 1994, 1064). Second, as with war, the confirmation process can cause collateral damage. Davis (1994, 1064) posits that single high-profile events (e.g., Supreme Court appointments) may cost a president "so much political capital that a mortal wound is inflicted" on his presidency. Indeed, much of the commentary about Kagan and other Supreme Court nominations suggests that presidents consider how much political capital a potential nominee would require to achieve confirmation. Political science scholarship confirms that presidents spend political capital to promote their Supreme Court nominees (Cameron and Park 2011; Davis 1994; Johnson and Roberts 2004). Presidents devote substantial effort to promote the confirmation of some nominees while others require little presidential advocacy and coast toward confirmation. However, whether time and resources spent on Supreme Court nominees matter beyond confirmation votes has not been established.

We examine systematically whether the relative effort presidents make for their Supreme Court nominees affects their success in other ways. We argue that a Supreme Court vacancy represents an exogenous shock to the political system in which presidents pursue their goals. The endogenous choice of the nominee, therefore, may temporarily reshape the policymaking environment in ways that influence the president's achievement of his legislative agenda and ability to staff the lower federal courts. We adopt a two-pronged approach to evaluate this argument. First, we examine presidents' success in enacting executive branch priorities from 1967 to 2010. Second, we investigate the confirmation processes of district and circuit court nominees from 1977 to 2010. Our findings indicate that several facets of the president's agenda can be limited by the amount of effort he must invest in a Supreme Court nomination.

the nomination.

Political Capital and Supreme Court Nominations

The presidency employs a diverse set of powers to shift policies in a favorable direction. One of the most prominent is the ability to select Supreme Court justices. Article III judges have the potential to retain their offices for life and influence American jurisprudence long after their appointing presidents leave public life (Lindquist, Yalof and Clark 2000). Accordingly, presidents attempt to select like-minded justices to advance their legal and political goals.

An extensive literature examines the Supreme Court nomination process (Abraham 1999; Comiskey 2004; Massaro 1990; Maltese 1995; Yalof 1999) and senators' confirmation votes (Cameron, Cover and Segal 1990; Epstein and Segal 2005; Epstein et al. 2006). Much of this literature focuses on how the confirmation process influences the choice of the nominee. Presidents attempt to nominate justices as close to their ideal point as possible but they must consider the constraining influence of pivotal senators (Segal and Cover 1992; Moraski and Shipan 1999; Johnson and Roberts 2005). However, little scholarly consideration is given to the broader effects of the confirmation process. Our interest is in the effort required of presidents during the confirmation process. Greater effort requires more of a president's time, resources, and attention (or "political capital"). We posit that expenditures of political capital in the confirmation process influence presidents' success with regard to their other political priorities.

Despite the strategic selection of Supreme Court nominees by presidents (Moraski and Shipan 1999; Nemacheck 2008), the confirmation process occasionally requires a substantial commitment of presidents' political capital. Several scholars have examined the selling of Supreme Court nominees by the president (Cameron and Park 2011; Davis 1994; Johnson and Roberts 2004; Maltese 1995). They scrutinize the use of presidents' resources to secure the confirmation of their nominees. This research is grounded theoretically in literature examining the president's role as a policy leader. One aspect of this policy leadership is the president's ability to draw the attention of the media, public, and interest groups. Kernell (1997) argues that presidents seeking to secure the passage of their legislative initiatives must

spend time and effort "going public" in order to persuade key members of congress. Because presidential statements are likely to be reported in the media (Barrett 2007, 655), speaking out to encourage confirmation of Supreme Court nominees can be an effective strategy for presidents (see Johnson and Roberts 2004).

To the best of our knowledge there are only three systematic studies of the president's use of political capital in the Supreme Court confirmation process (Johnson and Roberts 2004, 2005; Cameron and Park 2011).[6] Johnson and Roberts (2004) examined 28 Supreme Court nominations from 1949 to 1994. They tested the effects of political capital and the president-Senate relationship to explain the number of sentences utered by presidents promoting potential justices. They determine that greater ideological distance between the president and Senate filibuster pivot is associated with a greater expenditure of political capital. In later work, they demonstrate that by expending more capital, presidents can secure the confirmation of more ideologically extreme nominees (Johnson and Roberts 2005).

Cameron and Park (2011) studied 49 nominations to the Supreme Court from 1930 to 2009. They explain that going public over nominees was rare before the presidency of Lyndon Johnson, and became much more common during the Ronald Reagan administration. They explain these events using the predictions of political capital theory and opinion contest theory. The authors find substantial support for opinion contest theory in their analysis, with more interest group opposition to a nominee resulting in more outspoken support by presidents regardless of presidential approval scores or ideological discord between the president and Senate.

Johnson and Roberts (2004, 2005) and Cameron and Park (2011) greatly improved our understanding of when presidents speak out to promote the confirmation of their Supreme Court nominees. This literature suggests that presidents can use political capital to secure the confirmation of nominees that better reflect his ideology. However, there may be trade-

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[6]Going public to promote potential jurists has been studied in other contexts. Holmes (2007, 2008) studied presidential speech to promote nominees to the U.S. Courts of Appeals. Vining and Wilhelm (2011) examined gubernatorial endorsements of candidates in contested elections for seats on state courts of last resort.

offs associated with this decision. In what follows, we develop a theoretical framework to explain why and how presidents are likely affected by using political capital to promote the confirmation of Supreme Court nominees. Specifically, we examine the impact of Supreme Court vacancies on two key presidential powers: the ability to influence the legislative agenda and the ability to fill vacancies to lower federal courts. Despite speculation in the press and social science research, ours if the first assessment of this important political question.

The President's Agenda in the Senate

The selection of Supreme Court justices is just one of several key powers afforded to the modern presidency. Presidents use a wide range of tactics to set policy, including their ability to influence the legislative agenda and staff vacancies to key independent boards and lower level federal courts. In terms of influencing the legislative agenda, modern presidents introduce legislation and define policy alternatives (Covington, Wrighton and Kinney 1995; Eshbaugh-Soha 2005, 2010). The State of the Union Address and other public speeches are important venues for this activity (Canes-Wrone 2001; Cohen 1995, 1997; Light 1999; Yates and Whitford 2005), but they are not the only means through which presidents outline their legislative goals. Presidents also add items to the legislative agenda intermittently in response to issues or events that they believe require attention. This may be done either by sending messages to Congress or through presidential communication to legislators' constituents. While not unconditional, presidents can use their time and resources to secure the passage of key policy proposals (Edwards and Wood 1999; Light 1999; Neustadt 1955, 1960).

Scholars of American politics frequently examine the determinants of presidential success in Congress. Given the president's agenda-setting power and status as "the star of the media's reporting on political news" (Barrett 2007, 655), these inquiries are understandable. Perhaps the two most often studied explanations of presidential success are his popularity (Barrett and Eshbaugh-Soha 2007; Bond and Fleisher 1990; Rudalevige 2002) and the presence of divided government (Bond and Fleisher 1990; Edwards 1989; Edwards and Barrett

2000). However, another aspect of presidential success is his duration of tenure as the chief executive. Light (1999) explains that presidents face a "cycle of decreasing influence" and must set the agenda early before their influence rapidly declines as their tenures lengthen. Thus, presidents enjoy a "honeymoon period" following their inaugurations and descend into "lame duck" status while their term expires. Empirical research supports these notions— presidents enjoy their highest rates of legislative success early in their terms (Eshbaugh-Soha 2005, 2010; Beckmann and Godfrey 2007) and lame ducks are comparatively weak (Eshbaugh-Soha 2010; Grossman, Kumar and Rourke 1998).[7]

Presidents also influence law and policy through their nominees to judgeships and the federal bureaucracy. Perhaps the most important nominations made by presidents are those for federal judgeships. Article III judges serve "during Good Behaviour." This is understood to mean federal judges have life tenure. As a result, they tend to serve for decades after their appointing president leaves office. Presidents usually select lower court nominees who share their own political predispositions /citepGoldman:1997. This is a priority for presidents because federal judges influence the course of the law and public policy.

Political scientists devote a great deal of attention to the confirmation dynamics of both circuit and district court judges. Scholars report substantial variation in the duration of confirmation processes. This is important for several reasons. First, lengthy battles over judicial and other executive nominations delay the enactment of presidential policies (Binder and Maltzman 2009; McCarty and Razaghian 1999; Shipan and Shannon 2003). Second, lengthy confirmation hearings facilitate efforts by the presidents' opponents to spotlight issues that might embarrass the President and hurt him electorally (Shipan and Shannon 2003). Third, vacant judgeships hinder the ability of federal courts to dispose of their caseloads. In his 2010 Year-End Report on the Federal Judiciary, Chief Justice John G. Roberts, Jr., argued that understaffing has burdened federal judges in some circuits with

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[7]That said, Light (1999) also argues that presidents enter a "cycle of increasing effectiveness" later in their terms when they are more effective in terms of shaping the content of legislation than their junior counterparts. However, recent empirical scholarship fails to support this thesis (Barrett and Eshbaugh-Soha 2007).

"extraordinary caseloads" and that there was an "urgent need for the political branches to find a long-term solution to this recurring problem" (Roberts 2010). Finally, consistent with the literature on presidential success, timing plays an important role in the confirmation process. Specifically, scholars have argued that delay can hurt the President's bargaining position and lead to more failed nominations (Binder and Maltzman 2009; Groseclose and McCarty 2001; Krutz, Fleisher and Bond 1998; Mackenzie 1981; Shipan and Shannon 2003).

In sum, influencing the legislative agenda and staffing vacancies to lower federal courts represent important opportunities for the president to influence law and policy. In both cases, timing plays an important role in determining presidential success. In the sections that follow we present a theoretical explanation for the impact of the effort made by presidents in support of Supreme Court nominees on presidents' legislative success and judicial nominations, test our propositions, and discuss our results.

Time Management and the President's Agenda

It is "often overlooked" that presidents "operate in a world they do not control" (Beckmann 2010, 13). Supreme Court vacancies yield important (and often unexpected) additions to the president's "to do" list. Despite the president's power to influence the legislative agenda and achieve confirmation for his judicial nominees, unanticipated exogenous shocks can distract from these priorities. These events divert lawmakers' efforts to new concerns at the expense of preexisting agenda items. Exogenous shocks cost president's time, resources, and attention previously devoted to other endeavors. We theorize that Supreme Court vacancies and the nominations that follow function as exogenous shocks to the presidential agenda and influence success in both the legislative arena and the lower court confirmation process.[8]

Political scientists have established that exogenous events influence presidential success,

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[8]We note that our policy focus is not on large-scale shifts in stable policy agendas as examined by Baumgartner and Jones (12009) or Jones and Baumgartner (2005). Instead, we are interested in Supreme Court nominations as temporary shocks to the policymaking system. For that reason we do not adopt the "agenda disruption" or "issue intrusion" language used by Jones and Baumgartner (2005). Each involves a semi-permanence that we do not wish to imply.

but their interest has been devoted primarily to major domestic or national security crises (Beckmann 2010; Lebo and Cassino 2007). Those events often, but not always, demand immediate and ongoing attention. Despite the substantive differences between Supreme Court nominations and other types of exogenous events, we argue that they share many of their characteristics. Once a Supreme Court justice leaves office or declares her intention to do so, the president is responsible for selecting her successor. The vetting and confirmation processes require presidents' attention and time, both of which are scarce goods for political elites (Jones and Baumgartner 2005; Oppenheimer 1985).

The amount of time and political capital spent on a Supreme Court nominee is largely dependent on the ideology of the president and key legislators (Johnson and Roberts 2004, 2005). Presidents want to select nominees in line with their own ideological preferences, but must take into account the preferences of key senators (Moraski and Shipan 1999). The statement by Senator Reid suggests that Supreme Court nominations can distract legislators despite rational selection behavior by presidents. As a result, Supreme Court nominees can occupy time that would be allocated to different priorities. Time is a valuable commodity in the Senate. Its value has increased as the number of bills introduced has grown, obstruction has become commonplace, and party polarization has increased. In other words, senatorial time has been filled by two major sources: the sheer volume of bills (many of which are trivial but must be considered) and more extensive time spent debating the bills that are controversial. Eventually, these increased demands on the time of Congress have policy consequences because sessions expire before important legislation can be considered and passed (Oppenheimer 1985).

Majority party leadership in the Senate lacks the ability to issue restrictive floor rules and small groups or individuals from either party can obstruct the legislative process. Despite the presence of a cloture rule allowing three-fifths of the chamber to end debate, incidents of obstruction have increased fairly dramatically in the latter half of the twentieth century (Binder 1997; Koger 2010; Wawro and Schickler 2004, 2006). Even when the Senate majority

can muster a supermajority for cloture, the process is still fairly time consuming. The vote on a cloture petition can occur only after it lies over for two calendar days. Then, an additional 30 hours of debate and amending activity can occur before a final vote is taken on the measure. Given the large number of judicial nominations, moving cloture on all or many of them is untenable. As Senate Majority Leader Harry Reid (D-NV) noted in 2010, "there isn't enough time in the world – the Senate world, at least – to move cloture on every one of these [judicial nominations]" (Wilson and Murray 2010).

In response to increased obstruction, Senate majority leaders have relied more on unanimous consent agreements to manage routine chamber business (Ainsworth and Flathman 1995; Smith and Flathman 1989). This requires them to work with the minority party, frequently resulting in substantial policy concessions.[9] These concessions can range from moderating the ideological content of a measure to ignoring a bill or nomination completely. House members are often critical of the Senate's slow pace.

Given the chamber's open rules, policy leaders must balance their ideological preferences on a given issue with the transaction costs associated with passing legislation. Presidents faced with a Supreme Court vacancy must do the same. Opposition party senators understand that they can benefit from the president spending more time and effort on behalf of his Supreme Court nominees - even if the nominee is likely to be confirmed (Steigerwalt 2010). For example, in discussing how Stevens' retirement could help minority party-Republicans deprive Democrats from successfully enacting key agenda items, Minority Conference Chair Lamar Alexander (R-TN) noted that "a Supreme Court nomination always stops things around here" (Hulse and Zeleny 2010). Examples of this extend beyond the Kagan nomination. Silverstein and Haltom (1996) briefly discuss this possibility in their assessment of the Ruth Bader Ginsburg and Stephen Breyer nominations. They argue that Clinton picked

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[9]Obstruction in the Senate is often concentrated amongst members of the minority party. When a unanimous consent agreement is not in place, a motion to proceed to consideration is in order and subject to majority approval (though a cloture vote on the motion to proceed may be necessary). As such, the legislative agenda is typically set by the majority party, minority party obstructionists typically (but not always) have less to sacrifice by a manifest filibuster. See Den Hartog and Monroe (2011) and Gailmard and Jenkins (2007) for a more detailed discussion of majority party control in the Senate.

them rather than other candidates because of his concern with alienating potential coalition partners in future political battles. Consistent with this, media coverage of the Breyer nomination explained that the Secretary of the Interior, Bruce Babbitt, was both the favored choice of liberals and likely to be confirmed. However, the Clinton administration did not want to provoke a confirmation fight due to "a heavy legislative agenda, including health care, that it hopes to push through Congress this year" (Greenhouse 2010).

When faced with aggressive opposition, presidents can spend large amounts of political capital to secure victory (Johnson and Roberts 2004; Cameron and Park 2011). We argue that this use of time and resources is not likely to be costless.[10] A confirmation process in which the president frequently engages the public reduces his personal resources and distracts elites from other policy priorities. Thus, hard-fought wars over Supreme Court nominees can cause substantial collateral damage to both the president's legislative agenda and his ability to fill vacancies on lower federal courts. *We hypothesize that presidents who expend more effort, and thereby spend more political capital, to advocate confirmation of a Supreme Court nominee are less likely to experience success in enacting legislative agenda items and getting their nominees to lower federal courts confirmed than presidents who devote less effort to promote confirmation.* This proposition is untested despite widespread speculation that the confirmation process weakens the president's bargaining position in other policy areas (Groseclose and McCarty 2001; Mackenzie 1981; Shipan and Shannon 2003).

Data and Method

The unit of analysis in our model of legislative success is a policy proposal on the president's agenda in each meeting of Congress from 1967 to 2010. This approach is consistent with previous studies of the presidency (Edwards 1985; Light 1999; Peterson 1990; Rudalevige 2002). Our list of presidential agenda items begins with proposals identified by Eshbaugh-Soha (2010). Eshbaugh-Soha (2005, 261) coded a presidential proposal as any measure that

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[10]Presidents are not, of course, necessarily successful in their promotion of Supreme Court nominees despite their expense of political capital (Massaro 1990).

was "emphasized in at least two presidential messages and are first mentioned in the State of the Union Address or similar 'Administrative Goals' speeches delivered after inauguration." We expand these data in several ways. First, following his coding methodology, we updated his list of proposals through 2010. Second, as Eshbaugh-Soha (2005, 2010) was primarily concerned with the content of the presidential agenda, and not when it was enacted by the Senate, we coded the last day the measure was approved by the Senate. The final passage date was listed as the date the conference report was adopted, if there was one, and the final passage date otherwise. Determining this necessitated using both the *Congressional Record* or the Library of Congress' Thomas website. Finally, in our models, we differentiate between "important" and "routine" legislation. The list of important proposals includes those as coded by Eshbaugh-Soha (2005) as either "meteoric" or "important." The list of routine proposals includes those coded by Eshbaugh-Soha (2005) as either "incremental" or "minor."

To capture the time it takes for a bill to pass the Senate, as well as the temporal variation in the factors influencing the prospects of passage, our data are coded as a stacked panel in which each observation consists of a month each specific proposal is considered. For each month, the outcome variable is coded 0 if a related bill or conference report does not pass and 1 if it achieves passage. Observations drop from the data set when they are enacted, or at the end of the congressional term. The data consist of 275 presidential policy proposals that were judged to be important (with a total of 3442 proposal-months) and 383 proposals that were routine (with a total of 4839 proposal-months). We consider separate models of important and routine proposals. We focus on the period since 1967 because that marks the meeting of the 90th Congress (1967-1969), where confirmation politics transformed with the successful filibuster of Justice Abe Fortas preventing his promotion to Chief Justice of the United States (Cameron and Park 2011; Massaro 1990).

Regarding the policy agenda, our primary theoretical argument is that presidents who invest greater relative effort advocating the confirmation of a Supreme Court nominee will

have lower rates of legislative success in the short term. To test this relative effort hypothesis, the primary predictor in our model is the monthly count of the number of sentences in public statements made by the president to promote a Supreme Court nominee. We update the measure of Cameron and Park (2011), who counted the total number of sentences both in speeches focused on a Supreme Court nomination as well as answers to questions in press conferences related to a nominee.[11] By counting these sentences on a monthly basis, this variable captures the president's relative effort devoted to the confirmation process at a given time.

Besides this treatment variable, our model also includes a set of covariates hypothesized to influence presidential success on legislation. We include presidential approval, which is measured by taking every reported survey result from the Roper Center for Public Opinion Research's iPOLL archive. This is smoothed to a monthly measure that appropriately weights each polling house using the technique described by Stimson (1991, 129-131). We also include the ideological distance between the president and the Senate filibuster pivot measured using DW-NOMINATE scores (updated from Poole and Rosenthal 1997).[12] Because major exogenous events (such as disasters or economic calamities) can draw the president's attention away from other matters, we also include an indicator variable for whether such an event occurred in a given month (Beckmann 2010, 141). This indicator is adapted from Lebo and Cassino's (2007) research but tailored to focus on exogenous events over which the president had no control.[13] A complete listing of the events can be found in Table 1.[14] Finally, the Senate's receptiveness to presidential policy proposals may shift in the president's

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[11]We are grateful to Cameron and Park (2011) for providing not only their data, but the specific list of speeches they relayed on. Using this list, we coded the date the speech was given and use the total number of sentences per month. Following their coding rules, we updated these data to include the Elena Kagan nomination.

[12]Specifically, this is the absolute distance between the president's dw1_nominate score and the dw1_nominate score of the senator at the 60th percentile or 40th percentile of a given Senate depending on the partisan affiliation of the President.

[13]For example, Lebo and Cassino's (2007) include a variable for the Clarence Thomas hearings. This event was directly controlled for by the President, so we omitted it from our list. Our updated list is drawn from the website of the Miller Center at the University of Virginia. This website includes biographies for all presidents including a list of "Key Events" during their tenures. Source: http://millercenter.org/president/.

[14]Notably, our substantive results hold even if we omit the exogenous events variable.

second term, or ahead of a midterm election when the Senate and president are of the same party; hence, indicator variables are included for each of these predictors.

[Table 1 about here.]

In order to examine the influence of Supreme Court vacancies on the appointment process for lower federal judges, we adapt the model of confirmation duration developed by Martinek, Kemper and Van Winkle (2002, 354). We update their data to include all federal district and circuit court nominees from 1977 to 2010.[15] A total of 415 circuit court nominations (with 3892 nomination-months total) and 1396 district court nominations (with 4839 nomination-months total) were submitted during this time period.[16] We analyze circuit court and district court nominations separately due to different norms and practices associated with each as well as the greater politicization of nominations to appellate courts (Goldman 1997; Scherer 2005; Steigerwalt 2010).

For each of these models the unit of analysis is a month in which a judicial nomination was pending. For each month a nomination was considered, the outcome variable is coded 0 if a nominee is not confirmed and 1 if the Senate confirms his or her appointment. Nominees drop out when they are confirmed or when the congressional term ends. Again, we anticipate that when the president invests more time and attention to a Supreme Court nomination, this has a negative impact on his ability to push lower court nominees through the confirmation process. Therefore, our primary treatment variable is the number of sentences in statements per month that a president makes in support of a Supreme Court nominee.

The confirmation models include all of the covariates in the policy model—presidential approval, exogenous events, distance to filibuster pivot, second term president, and midterm election under unified government—under the view that any factor that can shape Congress's

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[15]We thank Sheldon Goldman, Susan Smelcer, and Amy Steigerwalt for providing updated lists of federal judicial nominees and ABA ratings. Nomination dates were acquired from the Biographical Directory of Federal Judges maintained by the Federal Judicial Center (online at http://www.fjc.gov/history/home.nsf/page/judges.html).

[16]Our data excludes the nomination of Carolyn P. Short, who was nominated conditional on the elevation of the current occupant of the post to a higher court. The seat never became vacant.

receptiveness to the president's agenda also applies to filling appointed positions. Additionally, and building on the work of Martinek, Kemper and Van Winkle (2002), this model also specifies that both nominee-specific and institutional factors affect the duration of the confirmation process. The characteristics of nominees expected to influence the duration of the confirmation process include their American Bar Association (ABA) ratings, race, gender, and whether they have been renominated after failing to achieve confirmation.

Institutional characteristics are captured by the covariates from the policy model as well as the composition of the Senate Judiciary Committee. This is necessary because this committee considers all judicial nominees and has unique norms apart from those of the full Senate (e.g., the blue slip process, judicial confirmation hearings, and quasi-formal cooperation with the ABA's Standing Committee on the Federal Judiciary). Finally, extensive prior research indicates that the failed Supreme Court nomination of Judge Robert Bork marked a structural break in the politicization of nominees, so we include an indicator for whether the nomination took place in a session of Congress following this failed nomination (Martinek, Kemper and Van Winkle 2002; Epstein et al. 2006). The univariate descriptive statistics for variables in both the policy proposal and judicial nomination models are reported in Table 2.

[Table 2 about here.]

Statistical Specification of the Duration Models

For each of the four outcomes we consider—the passage of important or routine policy proposals and confirmation of circuit court or district court nominees—we estimate a discrete time model. Like other duration models, discrete time models analyze the time it takes for an event to occur. We investigate the time until the Senate passes a bill or confirms a nominee. These models are estimated by organizing the data as a stacked panel in which the outcome is coded 1 at the time the event occurs, 0 otherwise, and the individual proposal or

nominee drops out once the event (Senate passage/confirmation) occurs.[17] A model of this form contains the same information as a duration model that uses the time until an event as the outcome variable (Box-Steffensmeier and Jones 2004, 69-71).

Under this framework, the hazard rate is equal to the predicted probability from the model (Cameron and Trivedi 2005, 602). This is the probability the event of Senate passage occurs conditional on the predictors and the fact that the nomination or proposal has not yet passed (Mills 2011, 182). Cameron and Trivedi (2005) point out that it is important to allow the intercept of the logistic regression model to vary in each time period. Otherwise, the model is equivalent to assuming an exponential distribution for duration times, which assumes the baseline hazard rate is constant over time. Following this advice, we nonparametrically model the baseline hazard rate following the generalized additive model procedure described by Beck and Jackman (1998). The baseline hazard rate is smoothed over the 24 months of a congressional term, and a unique baseline is allowed for pre-midterm congresses and post-midterm congresses. In this way, all 48 months of a president's term have a unique baseline propensity for Senate passage of a presidential agenda item.

Normally the baseline hazard is developed for the duration of time until the event occurs for the observation. In the case of presidential actions, however, prior theory suggests that the baseline likelihood of an event occurring is less a function of how long the nomination or policy proposal has existed and more a function of when in the president's term the initiative is being considered. Among the well-established results are that many laws are enacted during the "honeymoon period" of a president's first 150 days (Grossback, Peterson and Stimson 2006), and that judicial nominees often are not considered in the last six months of a president's term. Given that the time a policy proposal or a nomination is pending is highly collinear with how far along the session of congress is, we choose to put a premium on

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[17]Cameron and Trivedi (2005, 577-578) point out that duration data are often measured within intervals (such as weeks or months), and in these cases transition times are grouped within their respective intervals in discrete-time hazard models. In our case, the data are measured monthly. If a nomination or policy proposal is approved at any point in a month it is coded 1. If it is not approved, but pending at any point in a month, then it is coded 0.

properly filtering the effect of time in the congressional term, as missing this is much more likely to violate proper model specification. Our technique of allowing a nonparametrically smoothed hazard rate to vary across all 48 months of the president's term should serve to capture all of the temporal dynamics of electoral mandates and lame-duck terms that are commonly discussed. Further, given that this nonparametric and flexible time-referenced intercept is in the model, any remaining effects of the time a presidential proposal has been considered ought to be negligible.

Each presidential proposal and judicial nomination is only considered within a congressional term. If the proposal does not pass or the nominee is not confirmed within that time frame, they are right-censored and drop out of the data set. By coding right-censored proposals as never succeeding in the data set, our model naturally accounts for this right-censoring (Box-Steffensmeier and Jones 2004, 72). However, the fact that a nomination or proposal can only be considered within one term of congress (or else the president has to place it on his agenda again in the next term), our data have a special quality of being nested in nature. In other words, these are multi-level data wherein proposals and nominations are nested within congressional terms. For this reason, we account for the possibility that the Senate will be more willing to enact the president's agenda more quickly during some terms than in others. We do this by including a frailty term that accounts for random variation in passage times among congresses (Cameron and Trivedi 2005, 614).

All of these features are incorporated in the generalized additive mixed model presented in Equation 1.

$$\text{logit}(\lambda_{ijt}) = \alpha(m_{ijt}, d_i) + \mathbf{x}'_{ijt}\boldsymbol{\beta} + \epsilon_i \tag{1}$$

In this model, observations are identified by the congressional term (i), proposal or nominee (j), and month of consideration (t). Since the outcome is a binary indicator, this equation specifies a logit model of the probability a proposal or nomination will be adopted in a month given that it has not yet been adopted. The term α is a nonparametric intercept term that is smoothed over m_{ijt}, which is the month of a congressional term a proposal is

being considered. The month term is interacted with d_i, which is an indicator coded 0 if it is a congress serving before a midterm election and 1 if it is a congress following a midterm election, thereby allowing a unique baseline hazard for any month in a presidential term. $\mathbf{x}_{ijt}$ is a vector of covariates that a proposal takes on in a given month (including a constant), $\boldsymbol{\beta}$ is a vector of fixed regression coefficients, and ϵ_i is a random frailty term that varies by congress. The model of Equation 1 is estimated using thin plate regression splines for the smoothed intercept and a ridge penalty for the random effects (or frailties) by congressional term.

Results for Policy Proposals

Table 3 reports the results from fitting the duration model of Equation 1 to the data on important and routine policy proposals. On important policy proposals, the number of sentences the president makes about a Supreme Court nominee has a negative and statistically discernible effect on the probability a proposal will pass the Senate in a given month. This result fits with our theory that major items on the president's agenda can suffer when he dedicates substantial time, effort and attention to the confirmation of a justice. However, this treatment variable does not have a discernible effect on routine policy agenda items.[18] These less-visible, less-politicized proposals appear to be a function of other factors. Specifically, major exogenous events appear to distract the Senate from adopting such proposals, and the Senate is less likely to adopt minor proposals when it is more ideologically distant from the president (as captured by the filibuster pivot).

[Table 3 about here.]

The results of this model are clarified in Figure 1. In this figure, the horizontal axis represents values that the odds ratio for a given coefficient can take, and all of the coefficients are listed along the vertical axis. Within the figure, points represent the estimate of the odds

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[18]If we a fit a model where important and routine agenda items are pooled, the treatment variable is statistically significant at the .90 level.

ratio, and line segments represent the 90% confidence interval. The results for the model of important proposals are presented as dotted black lines with circular points, and the results for the model of routine proposals are presented as solid red lines with triangular points.

An odds ratio tells us the factor by which the odds will change for a one unit shift in the input variable. Hence, whenever the confidence interval includes 1, it includes the prospect that the odds of a proposal's passage compared with non-passage in a given month are not responsive to the input. Of particular interest is the odds ratio of sentences supporting a Supreme Court nominee in the model of important policies. As can be seen, the confidence interval only includes values less than one, and the point estimate is equal to 0.955. This means that for each additional sentence the president utters in support of a Supreme Court nominee, the odds of Senate passage compared with non-passage for an item on his agenda drop by 4.5%. Further, as Table 2 indicates, the standard deviation of this predictor is nearly 12. If the president were to deliver a 12-sentence speech supporting a Supreme Court nominee, the odds of Senate passage would drop by 42.6%. This very plausible situation represents a substantial drop in the president's ability to advance major legislation. This result also implies that it takes longer for a policy agenda item to be enacted in the Senate. Given that policy proposals leave the agenda at the end of a congressional term, the longer time frame also means that more proposals will never be enacted. This suggests that how much effort a president expends supporting his nominee does damage his ability to enact important policy.

[Figure 1 about here.]

Finally, it is worth considering how presidential policy proposals fare over time in the Senate when all of the structural factors are held constant. Figure 2 shows the smoothed intercept for important and routine policy proposals over all of the months of a president's term. This illustrates how the baseline hazard varies. In each panel, the horizontal axis represents the number of months into the president's term, and the vertical axis represents the value of the smoothed intercept. A vertical dividing line on each panel separates the

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pre-midterm Congress from the post-midterm Congress. The solid line is the estimate of the smoothed intercept, and the dashed lines are drawn two standard deviations above and below the estimate. As Table 3 reports, all of these smoothed terms are statistically discernible at any common level of confidence.

[Figure 2 about here.]

The smoothed intercepts presented in Figure 2 behave in many regards as we would expect: At the beginning of a president's term, the Senate has not yet had time to debate or enact any proposals. Hence, the early baseline hazard is quite low for both kinds of policy. Right around the sixth month, the hazard reaches a peak when the president's proposals from his "honeymoon period" start to be enacted. Additionally, for both important and routine proposals, the hazard rate drops off at the end of the president's term, a likely indication of his lame duck status. Other peaks and troughs emerge as Congress has fewer or more days of recess, thereby limiting its ability to enact policies.

Results for District and Circuit Court Nominees

Table 4 reports the results from fitting the duration model of Equation 1 to the data on circuit and district court nominees. On district court nominees, the number of sentences the president makes in statements about a Supreme Court nominee has a negative and statistically discernible effect on the probability a nominee will be confirmed by the Senate in a given month. Hence, the president is less able to fill district court vacancies when he dedicates substantial capital to supporting a nominee for the Supreme Court. This treatment variable, however, does not have a discernible effect on circuit court nominees. This may be a function of the way the Senate Judiciary Committee considers nominees for each of these two courts, with increased attention to a Supreme Court nominee diminishing their ability to process the large number of district court nominees. Also of note, two particularly robust predictors of confirmation at both levels of the judiciary are the ABA's qualification rating of

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the nominee and the number of pending judicial nominations. At either level, more qualified candidates are confirmed more easily, *ceteris paribus*, and a larger backlog of nominations increases the Senate's propensity to confirm a nominee, on average and all else equal.

[Table 4 about here.]

Figure 3 shows a forest plot of the odds ratios to demonstrate further the impact of our variables. The bottom horizontal axis presents the potential values of odds ratios for the six predictors listed in the lower portion of the graph, and the top horizontal axis presents the scale for the four predictors in the upper portion of the graph.[19] The results for the model of circuit court confirmations are presented as dotted black lines with circular points, and the results for the model of district court confirmations are presented as solid red lines with triangular points.

As Figure 3 shows, in the model of district court confirmations, the estimate of the odds ratio for presidential sentences supporting a Supreme Court nominee is .994. Further, the confidence interval only includes values less than one, indicating a discernible effect at the 95% confidence level. Substantively, this result implies that for each additional sentence the president makes in a statement supporting a Supreme Court nominee, the odds of Senate confirmation compared with non-confirmation for a pending district nominee drop by 0.6%. Again, as Table 2 indicates, the standard deviation of this predictor is nearly 17. If the president were to deliver a 17-sentence speech supporting a Supreme Court nominee, the odds of Senate confirmation of a district court nominee would drop by a substantial 10.5%. Hence, attention to a Supreme Court vacancy limits the president's ability to fill vacancies in district courts. Again, this result implies that it takes longer for a district court nominee to be confirmed by the Senate. Given that the Senate drops consideration of a nominee at the end of a term, the longer time frame implies that fewer of the president's nominees ever will be confirmed. This is consistent with the idea that how much capital a president spends

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[19]Figure 3 omits the odds ratios for distance to filibuster pivot, proportion of the judiciary not of the president's party, and post-Bork nomination, as the scale of these coefficients' effects would not fit neatly on the graph.

supporting a Supreme Court nominee does damages his ability to shape the composition of district courts.

[Figure 3 about here.]

Finally, Figure 4 shows the smoothed intercept terms for circuit and district court nominees over all of the months of a president's term, indicating how the baseline hazard rate varies. As Table 4 reports, these smoothed terms and the variance of random frailties by congress are all statistically discernible at any common level of confidence. Much like with the policy models, the smoothed intercepts of Figure 4 behave in a reasonable manner. Early in a president's term, the baseline hazard is lower, as the confirmation process cannot be completed in such a short time. Over the course of the pre-midterm congressional term, though, the propensity to confirm the president's nominees rises (albeit in an up-and-down fashion for district court nominees). Again, the president sees a major drop-off in the confirmation rate during the last year of his term, potentially on account of the Thurmond Rule.

[Figure 4 about here.]

Conclusions

We have argued that presidents are less likely to be successful enacting their policy proposals and filling lower court vacancies when they are forced to expend greater relative effort on a Supreme Court nominee. Using data on all presidential proposals from 1967 to 2010, our results show that the more a president is forced to go public on a nominee's behalf, the less successful he is at enacting important policy initiatives from his agenda in the U.S. Senate. Additionally, data on all lower federal court nominations from 1977 to 2010 indicate that the more effort a president dedicates to promoting a Supreme Court nominee, the less successful he is at achieving senatorial consent to his district court nominees. All of this fits with the broad idea that political capital is a valuable commodity for the president.

Furthermore, because we include presidential proposals and nominations only after the president has made them, it is likely that we underestimate the collateral damage caused by presidents' relative efforts on Supreme Court nominations. It seems likely that presidents faced with a Supreme Court vacancy are slower in proposing agenda-items and vetting potential nominees to lower federal courts. Indeed, Republican senators criticized President Barack Obama for nominating potential judges more slowly than his predecessors. Responding to this, President Obama pointed to "other priorities," including the two Supreme Court nominations.[20] Future work should consider the effect of Supreme Court vacancies on the executive branch's output.

Our analysis highlights the important role played by transaction costs and has important implications for scholars who examine policy-making in either the U.S. Senate or separation of powers context. There is overwhelming evidence demonstrating that once a bill or nomination is on the floor, its success or failure is in large part determined by the underlying content of the measure (or the ideal point of a nominee) in relation to the ideological location of key legislative pivots. But no legislative or nomination battle is fought in a vacuum. The amount of time and resources devoted to the enactment of a given bill or nomination directly influences the success of pending agenda items. This implies that the enactment of a particularly salient piece of legislation or a lengthy battle over a controversial lower-court or executive branch nomination likely has substantial consequences on the broader presidential or legislative agenda.

This is not to suggest that presidents lack other means to influence policy. We have focused on how the relative effort expended on Supreme Court nominations can lead to collateral damage to the president's legislative agenda and ability to staff the federal judiciary. However, presidents do not have to go through Congress to shape policy and defend presidential authority. They use, for example, constitutional tools such as executive orders (Howell 2003; Mayer 2001), vetoes (Cameron 2000), recess appointments (Black et al. 2007),

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[20]See "Judge Not," *The Economist*, December 9, 2010.

and signing statements (Ostrander and Sievert 2013). Future work should examine whether presidents employ these powers more often in order to compensate for political capital spent on Supreme Court nominations.

In sum, Supreme Court vacancies provide presidents with valuable opportunities to influence policies long after leaving the White House, but they can come with important trade-offs. Vacancies also provide out-party senators with an opportunity to delay the passage of policy proposals supported by an opposing party president. As such, the president may need to sacrifice important policy proposals from his legislative agenda in the Senate. In addition, the president can shape the long-term composition of the federal judiciary with the appointment of district court nominees. However, the confirmation process for these individuals is likely to be delayed, if not derailed altogether, when a Supreme Court nominee is considered. This indicates that presidents are constrained in the policy arenas in which they can create an enduring legacy and must choose carefully where to focus their time and attention.

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Table 1: Exogenous Events

Congress	President	Event
90	Johnson	Tet Offensive
90	Johnson	MLK Assassination
91	Nixon	Violent Anti-War Marches
95	Carter	Bert Lance Hearings
96	Carter	Deng Visits U.S.
96	Carter	Three Mile Island
96	Carter	Gas Lines
96	Carter	Iran Hostage Crisis
96	Carter	BillyGate
97	Reagan	Assassination Attempt
97	Reagan	Allen Accusation/Resignation
98	Reagan	Marines Killed in Lebanon
99	Reagan	Raymond Donovan Resigns
99	Reagan	Achille Lauro
99	Reagan	Iran-Contra
99	Reagan	Challenger Explosion
100	Reagan	Reports of Astrology Use
102	HW Bush	LA Riots
103	Clinton	Rabin & Arafat Accord
103	Clinton	Blackhawk helicopter shot down
104	Clinton	Oklahoma City Bombing
104	Clinton	Travel Gate
104	Clinton	Olympic Park Bombing
105	Clinton	Lewinsky Scandal
106	Clinton	Embassy Bombing
106	Clinton	Stock Market Crash
106	Clinton	Cole Bombing
107	W Bush	Terror Attacks
108	W Bush	Abu Ghraib Scandal
109	W Bush	Terri Schiavo Case
109	W Bush	Hurricane Katrina
109	W Bush	Hussein Death
110	W Bush	Scooter Libby Scandal
111	Obama	Swine Flue
111	Obama	Fort Hood Shooting
111	Obama	Nobel Prize
111	Obama	BP Oil Spill
111	Obama	Times Square Bombing

Note: List of exogenous events is adapted from Lebo and Cassino's (2007) tailored to include only events over which the president had no control. For example, Lebo and Cassino's (2007) include a variable for the Clarence Thomas hearings. This event was directly controlled for by the President, so we omitted it from our list. Our updated list is drawn from the website of the Miller Center at the University of Virginia. This website includes biographies for all presidents including a list of "Key Events" during their tenures. Source: http://millercenter.org/president/. Additionally, several of the events listed spanned multiple months.

Table 2: Descriptive Statistics of Monthly Data on Policy Proposals and Judicial Confirmations

Predictor	*Important Policy (N=3442)*				*Routine Policy (N=4839)*			
	Mean	S.D.	Min.	Max.	Mean	S.D.	Min.	Max.
Passes in month	0.0459	0.2093	0.0000	1.0000	0.0424	0.2014	0.0000	1.0000
Supreme Court sentences	2.4663	11.8267	0.0000	214.0000	2.5317	12.6548	0.0000	214.0000
Exogenous events	0.0950	0.2933	0.0000	1.0000	0.0924	0.2896	0.0000	1.0000
Distance to filibuster pivot	0.6496	0.1571	0.2774	0.8626	0.6040	0.1797	0.2774	0.8626
Presidential approval	54.8836	11.6183	34.2850	90.2220	54.3025	11.2984	34.2850	90.2220
Second term president	0.3414	0.4742	0.0000	1.0000	0.2786	0.4483	0.0000	1.0000
Midterm elect. under unified gov.	0.1888	0.3914	0.0000	1.0000	0.1666	0.3726	0.0000	1.0000

Predictor	*Circuit Court (N=3892)*				*District Court (N=8354)*			
	Mean	S.D.	Min.	Max.	Mean	S.D.	Min.	Max.
Confirmed in month	0.0822	0.2747	0.0000	1.0000	0.1493	0.3564	0.0000	1.0000
Supreme Court sentences	2.6346	14.8377	0.0000	214.0000	3.4600	16.5850	0.0000	214.0000
Exogenous events	0.1364	0.3433	0.0000	1.0000	0.1495	0.3566	0.0000	1.0000
Distance to filibuster pivot	0.7340	0.1332	0.3510	0.8626	0.6956	0.1445	0.3510	0.8626
Presidential approval	58.5181	10.6515	34.2850	83.8780	57.0914	10.8152	34.2850	83.8780
Second term president	0.3821	0.4860	0.0000	1.0000	0.3757	0.4843	0.0000	1.0000
Midterm elect. under unified gov.	0.1223	0.3277	0.0000	1.0000	0.1706	0.3762	0.0000	1.0000
ABA rating	4.4807	1.5470	1.0000	6.0000	4.3726	1.5407	1.0000	6.0000
Minority nominee	0.1688	0.3746	0.0000	1.0000	0.1998	0.3999	0.0000	1.0000
Female nominee	0.2235	0.4167	0.0000	1.0000	0.2230	0.4163	0.0000	1.0000
Renomination	0.2613	0.4394	0.0000	1.0000	0.1197	0.3246	0.0000	1.0000
Pending jud. nominations	48.1719	25.1425	1.0000	102.0000	44.8479	22.3442	1.0000	102.0000
Post-Bork nomination	0.8266	0.3787	0.0000	1.0000	0.7637	0.4248	0.0000	1.0000
Proportion of Jud. Cmte. not of president's party	0.5042	0.0599	0.3333	0.5714	0.5003	0.0668	0.3333	0.5714

Table 3: Discrete Hazard Model of Senate Passage of Important and Routine Presidential Policy Proposals, 1967-2010

	Important Proposals			Routine Proposals		
Covariate	Estimate	Std. Err.	z-ratio	Estimate	Std. Err.	z-ratio
Intercept	-2.7698	0.8478	-3.2669	-2.8547	0.8224	-3.4711
Supreme Court sentences	-0.0463	0.0247	-1.8732	-0.0051	0.0075	-0.6794
Exogenous events	-0.1052	0.3219	-0.3268	-0.8624	0.3916	-2.2024
Distance to filibuster pivot	-1.5033	1.1141	-1.3494	-2.5257	1.1170	-2.2612
Presidential approval	0.0098	0.0112	0.8801	0.0156	0.0116	1.3444
Second term president	-0.0082	0.3764	-0.0219	0.5503	0.3864	1.4240
Midterm elect. under unified gov.	-0.7457	0.3814	-1.9551	-0.0291	0.3605	-0.0806

For the important proposal model: 275 proposals considered in a total of 3442 months. AIC=1217.

    Approximate significance test for pre-midterm intercept smoothed over months:

    $\chi^2_{4.14} = 25.3$ ($p = 0.0001$). For post-midterm: $\chi^2_{8.97} = 40.8$ ($p < 0.0001$).

    For random effects by congress: $\chi^2_{11.46} = 22.8$ ($p = 0.1095$).

For the routine proposal model: 383 proposals considered in a total of 4839 months. AIC=1607.

    Approximate significance test for pre-midterm intercept smoothed over months:

    $\chi^2_{6.76} = 33.8$ ($p < 0.0001$). For post-midterm: $\chi^2_{8.45} = 48.4$ ($p < 0.0001$).

    For random effects by congress: $\chi^2_{12.22} = 15.5$ ($p = 0.5100$). Estimates computed with R 2.15.0.

Table 4: Discrete Hazard Model of Confirmation of U.S. Circuit and District Court Nominees, 1977-2010

Covariate	Circuit Court			District Court		
	Estimate	Std. Err.	z-ratio	Estimate	Std. Err.	z-ratio
Intercept	0.6620	2.8402	0.2331	-0.9105	2.1325	-0.4270
Supreme Court sentences	-0.0035	0.0046	-0.7602	-0.0065	0.0025	-2.5760
Exogenous events	-0.2139	0.1941	-1.1018	-0.0950	0.1106	-0.8591
Distance to filibuster pivot	-3.1060	3.9920	-0.7781	-1.6320	3.0241	-0.5397
Presidential approval	-0.0002	0.0126	-0.0180	0.0210	0.0064	3.3051
Second term president	0.0235	0.8677	0.0271	-0.0914	0.6803	-0.1344
Midterm elect. under unified gov.	-0.7671	0.3378	-2.2704	-0.9636	0.2184	-4.4129
ABA rating	0.1583	0.0446	3.5504	0.1248	0.0222	5.6223
Minority nominee	0.0916	0.1866	0.4906	-0.0066	0.0878	-0.0749
Female nominee	0.2331	0.1601	1.4562	0.0805	0.0831	0.9683
Renomination	-0.0800	0.1970	-0.4061	0.0857	0.1209	0.7089
Pending judicial nominations	0.0219	0.0059	3.6863	0.0193	0.0035	5.5657
Post-Bork nomination	-1.5109	0.9554	-1.5814	-1.2289	0.7233	-1.6990
Proportion of Judiciary Cmte. not of president's party	-2.4340	7.6470	-0.3183	-2.7159	5.7967	-0.4685

For the circuit court model: 415 nominees considered in a total of 3892 months. AIC=1920.

Approximate significance test for pre-midterm intercept smoothed over months: $\chi^2_1 = 5.53$ ($p = 0.0187$). For post-midterm: $\chi^2_{2.09} = 16.69$ ($p = 0.0005$).
For random effects by congress: $\chi^2_{11.51} = 76.02$ ($p < 0.0001$).

For the district court model: 1396 nominees considered in a total of 8354 months. AIC=6441.

Approximate significance test for pre-midterm intercept smoothed over months: $\chi^2_{8.89} = 92.3$ ($p < 0.0001$). For post-midterm: $\chi^2_{8.66} = 89.2$ ($p < 0.0001$).
For random effects by congress: $\chi^2_{11.72} = 108.7$ ($p < 0.0001$). Estimates computed with R 2.15.0.
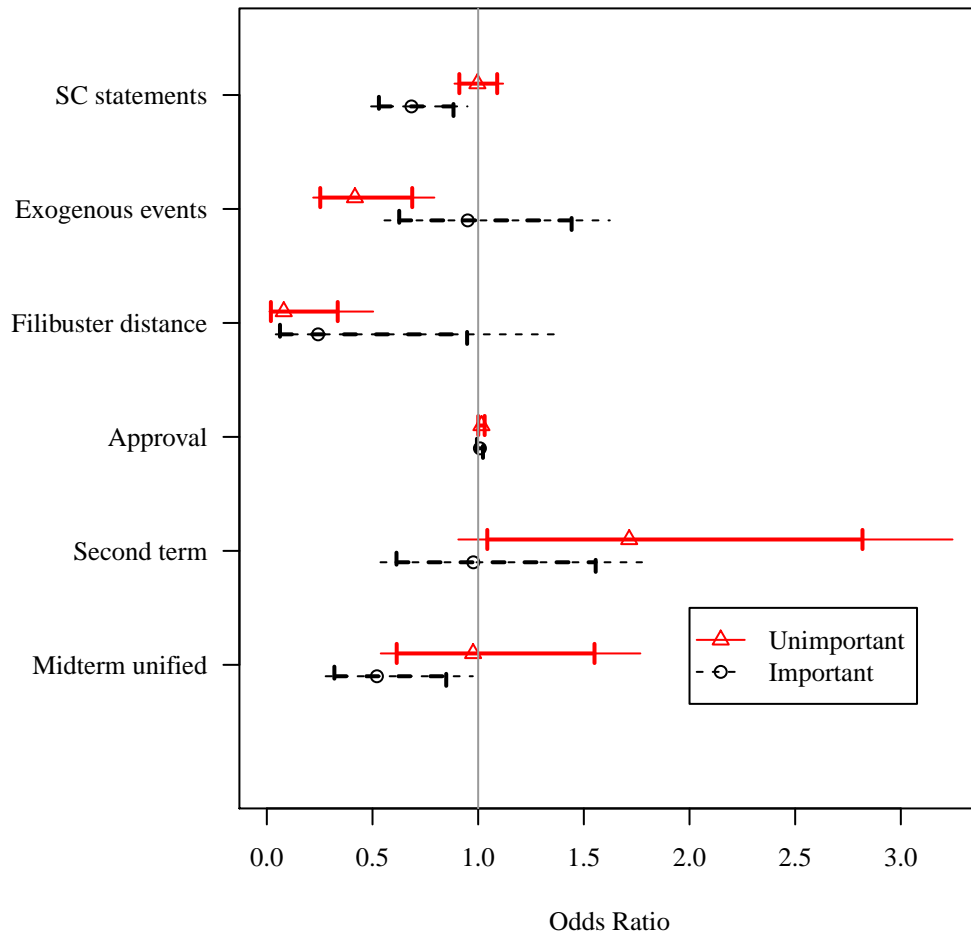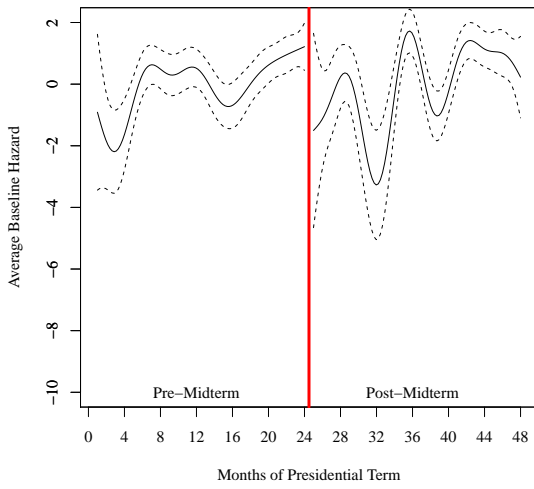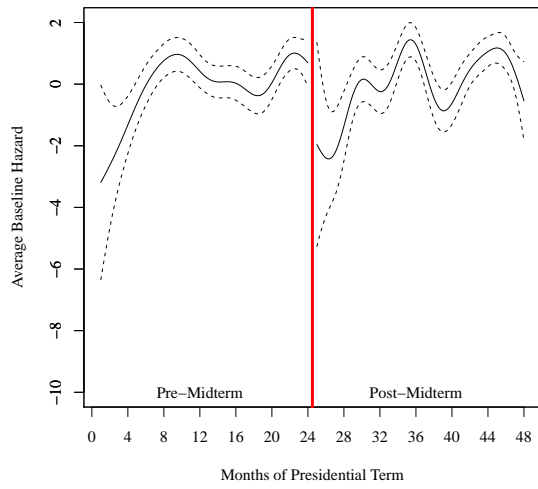
Figure 1: Point estimates and 90% confidence intervals of odds ratios from duration models of important and routine presidential policy proposals.

(a) Important

(b) Routine

Figure 2: Average baseline hazard rate for Senate passage of important and routine presidential policy proposals across the four years of a president's term.
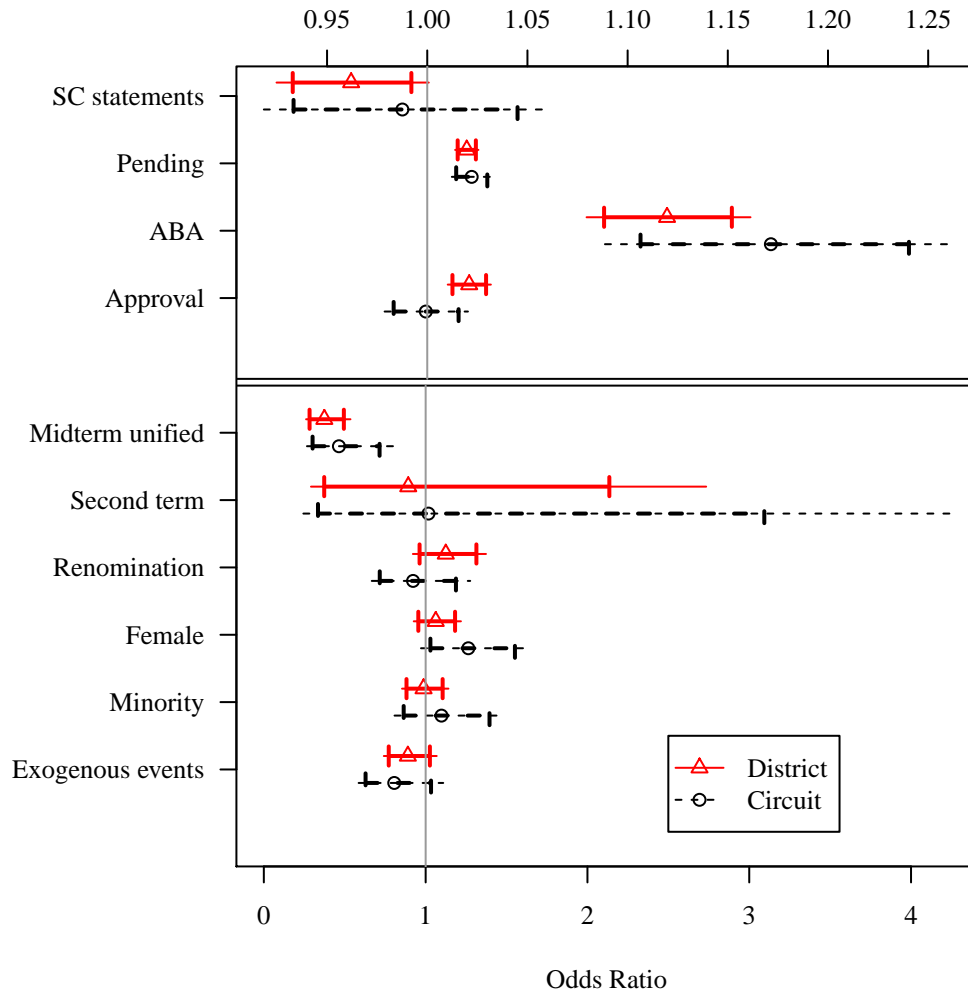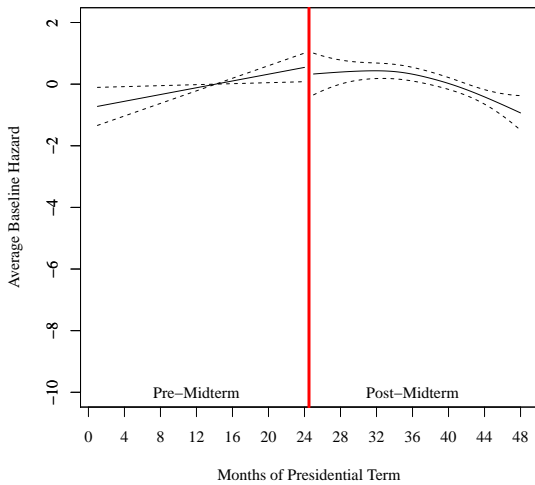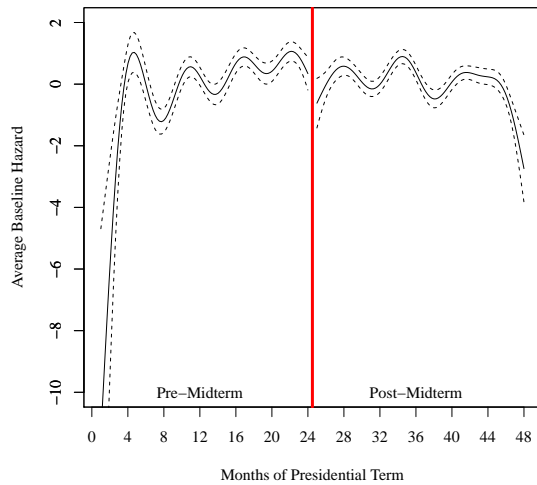
Figure 3: Point estimates and 90% confidence intervals of odds ratios from duration models of circuit and district court confirmations.

(a) Circuit Court

(b) District Court

Figure 4: Average baseline hazard rate for circuit court and district court nominee confirmation across the four years of a president's term.