Judicial Selection on Trial: 
Examining the Boons & Banes of Various Statewide Judicial Selection Methods 

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**Abstract**

The selection process for determining who represents the American people in their statewide legislatures and executive mansions is relatively standardized. Though ballots can differ between states, save for a few areas that embrace ranked choice voting, the person with a plurality of the votes is generally chosen for the office. However, no such standardization exists when it comes to selection methods for statewide judiciaries. Indeed, four methods of selection (competitive election, executive appointment, merit selection, and legislative appointment) are in use in different states today. What is more, there is no clear scholarly consensus as to which method performs best. The aim of this research project is to conduct, through regression analysis and other means, an empirical analysis that helps determine which method of selection is “ideal” given the criteria established through a thorough review of currently available literature.

**Research Questions**

1) Does a state’s method of selection correlate with different qualities regarding who is elevated to the bench?
   * Specifically looking at Race & Gender
2) When comparing methods of selection to one and other at the state level of analysis, are there observable differences in areas identified as important by scholars?

**Methods**

1) **Database Compilation**
   The database utilized for analysis in this project was a compilation of available information from State Politics & Policy Quarterly, Duke University, Rice University, and the American Bar Association. The data was aggregated to the state level, meaning that each observation in the regression was a state in a given year (ranging from 1994-2014).

2) **Data Analysis**
   In order to adequately answer the research questions, OLS regression was utilized. By controlling for several independent variables, and testing different dependent variables, correlations which imply answers to the research questions were reached.

**Discussion**

When examining the results, there does not appear to be a clear “best” choice when considering statewide judicial selection methods. Indeed, which question is asked, and which criteria used, seems to be determinative of the answer generated by the data analysis. Each method has its boons and banes, and thus it is up to the states themselves to prioritize the criteria, for, though there is no clear “ideal” option, it is clear that selection method does have an effect.

**Data Analysis & Results**

**Independent Variables of Interest:** ElectJudge (Judicial Election State) ExecAppoint (Executive Appointment State), MeritSelect (Merit Selection State) & LegAppoint (Legislative Appointment State)

**Dependent Variables:** CtProf (Courtroom Professionalism), Dissrate (Rate of Dissenting Opinions), CaldRep (Court Reputation), Chinnov (Courtroom Innovation), BlScore, HiScore, AsiaScore, NwScore, FemaleScore (How closely a state’s demographics mirror the judiciary).

**Control Variables (Ind):** Urban (Urbanization), Aveeduc (average education), region (region of the country of the state).

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**Judicial Election**

Found to Correlate Significantly with:
1) Higher Courtroom Professionalism
2) Higher Courtroom Reputation
3) Higher Rate of Dissenting Opinions
4) Higher Courtroom Innovation
5) Better than Average Female Representation
6) Worse than Average Non-White Representation

**Executive Appointment**

Found to Correlate Significantly with:
1) Lower Courtroom Reputation
2) Lower Rate of Dissenting Opinions
3) Lower Courtroom Innovation
4) Worse than Average Female Representation

**Merit Selection**

Found to Correlate Significantly with:
1) Lower Courtroom Professionalism
2) Lower Rate of Dissenting Opinions
3) Lower Courtroom Innovation
4) Better than Average Female Representation

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**Legislative Appointment**

Found to Correlate Significantly with:
1) Higher Courtroom Professionalism
2) Lower Rate of Dissenting Opinions
3) Lower Courtroom Innovation
4) Better than Average Female Representation