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JUDICIAL PRIMARY ELECTIONS IN COOK COUNTY, ILLINOIS: FEAR THE IRISH WOMEN!

*Albert J. Klumpp**

INTRODUCTION

The question of how to select judges for our state courts has produced one of the longest-running public policy debates in our nation's history. Opinions abound on the relative merits of elective and appointive selection systems, and the diversity of opinion has only increased over the years as different states have implemented new varieties of elective, appointive, and hybrid systems. Surprisingly lacking in this debate, though, has been supporting evidence—that is, empirical research on the different systems that would help evaluate their relative performance. What actually determines which judicial candidates reach the bench and which do not? Far too little attention has been paid to this fundamental question.

At the supreme court level the problem is not quite as severe today as it once was. Recent years have seen improvement in the quantity and quality of research on state supreme court selection. In part, this improvement has been driven by concern over the substantial increase in campaign contributions and campaign spending in recent state supreme court elections. The lower courts, however, remain overlooked and under-researched, even though lower-court candidates in elective states conduct campaigns of their own and even though most of the work of our state court systems is done by the lower courts.

Part of this problem stems from a failure by policymakers and the legal community to seek out or demand proper research. Proponents of the various selection systems have been overly content to simply argue back and forth without offering, or even seeking, hard evidence to support their arguments. Another part of the problem is a lack of interest within the academic community. The amount of academic research produced on state judicial selection has been a mere fraction of

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the amount produced on state legislative or executive selection, or for that matter on many other aspects of the judicial system.

Still another problem is a lack of consistent or well-developed methodology, especially for elective systems. In many elective jurisdictions there are large and potentially rich data sets of judicial contests that could be assembled and analyzed to gain valuable insight into how judicial elections function. The major impediment to doing so is that the determinative election phase in most of these jurisdictions is a partisan or nonpartisan primary. Many different variables can affect the outcomes of primary contests, and attempting to evaluate multiple variables across large groups of contests with varying numbers of candidates raises significant methodological obstacles.

This Article addresses the methodology problem. It presents a procedure for analyzing large groups of judicial primary contests and applies that procedure to a data set containing more than 300 contests in Cook County, Illinois, a large urban jurisdiction.

II. THE SETTING

Cook County, Illinois, is home to one of the nation's largest court systems. The county, which includes the city of Chicago, chooses its new judges through partisan elections as dictated by the Illinois constitution. With hundreds of courtrooms to fill, the county's voters face a substantial judicial ballot at every election. Between 1980 and 2010, a total of 477 judicial vacancies were put before the electorate, to be filled through the two-step process of party primary followed by general election. Of the 477 vacancies, 435 were for circuit court judgeships, 36 were for the state appellate court, and 6 were for the state supreme court (see Table 1 for data).

Some circuit court judgeships in Cook County are filled by county-wide election; the rest are distributed among fifteen judicial subcircuits into which the county is divided. The subcircuit system debuted in 1992 and replaced the earlier system of designating Chicago-only and suburbs-only judgeships. As for the higher courts, the county elects eighteen judges for its own appellate courts and three of the seven justices of the state supreme court. All of these judges, once elected, are exempt from primaries or partisan contests if they wish to remain on the bench. Instead, they stand for periodic yes/no retention elections countywide and must earn 60% voter approval.

Table 1 below reports the number of Cook County vacancies in each election year between 1980 and 2010, along with the number of candidates seeking to fill those vacancies. As the table indicates, the county is strongly Democratic. Fewer than one in six of the vacancies

TABLE 1. COMPETITION FOR COOK COUNTY JUDICIAL VACANCIES, 1980–2010

	Vacancies	Democratic Candidates	Republican Candidates	Contested Democratic Primaries	Contested Republican Primaries
1980	30	38	13	4	2
1982	12	19	7	6	1
1984	25	37	19	9	2
1986	21	90	12	13	4
1988	29	74	18	24	2
1990	19	90	22	18	3
1992	59	194	54	46	12
1994	61	225	41	46	12
1996	54	180	30	39	8
1998	25	142	36	22	9
2000	21	78	6	17	2
2002	27	94	19	21	3
2004	18	73	13	16	4
2006	23	67	15	15	5
2008	29	93	13	25	5
2010	24	102	2	21	1
TOTAL	477	1596	320	342	75

Supreme Court	6	27	6	5	2
Appellate Court	36	136	23	30	4
Circuit Court	435	1433	291	307	69

Note: Circuit court figures include countywide, city-only (1980–1992), suburbs-only (1980–1992), and subcircuit (1992–2010) contests.

produced a Republican primary contest with two or more candidates. Most of the Republican contests were in four suburban subcircuits where Republican voters are a majority or a near-majority.

Among the primary, general, and retention elections, how important is the primary? A review of past election results makes clear the importance of winning a primary contest. In the general elections, a competitive two-party contest is exceedingly rare. As shown in Table 2, most of the vacancies were simply conceded to one party or the other, and fewer than one in twenty vacancies produced a two-party contest competitive to within even ten percentage points. With few exceptions, the general election is a foregone conclusion.

TABLE 2. RESULTS OF GENERAL ELECTIONS FOR COOK COUNTY JUDICIAL VACANCIES, 1980-2010

Vote for Democratic Candidate	Count	Pct
100% (unopposed Democrat)	284	59.7%
65%-99%	60	12.6%
60%-64%	48	10.1%
55%-59%	20	4.2%
50%-54%	10	2.1%
45%-49%	13	2.7%
40%-44%	11	2.3%
35%-39%	10	2.1%
1%-35%	2	0.4%
0% (unopposed Republican)	18	3.8%
TOTAL	476	100.0%

Note: One newly created vacancy in 1990 was nullified after the primary election.

TABLE 3. RESULTS OF RETENTION ELECTIONS FOR INCUMBENT COOK COUNTY JUDGES, 1980-2010

Approval Rate	Count	Pct
80% and above	118	13.6%
75%-79%	456	52.5%
70%-74%	218	25.1%
65%-69%	44	5.1%
60%-64%	20	2.3%
below 60%	12	1.4%
TOTAL	868	100.0%

The same is true of the retention election. Table 3 shows that nearly all of the 868 incumbent judges who have sought retention since 1980 have won it and won it easily. Less than 2% were defeated, and more than 90% were retained by a comfortable margin of 70% or higher.

In short, the primary election is all but decisive. Candidates who seek to become judges and remain judges are well positioned to do so if they can emerge victorious from one primary contest. But how is that victory attained?

Four categories of variables will be evaluated in this study; each has long been believed to be influential in Cook County judicial primaries.

The first category is party endorsements. The Cook County Democratic Party slates candidates for all of the countywide judicial vacancies. While slating is not the slam-dunk guarantee of victory that it was in decades past, it still is viewed as a valuable electoral advantage and is a prize aggressively sought by judicial candidates.¹ Slating also occurs in most subcircuit contests, but practices vary widely. Some subcircuits contain unified slating committees; in others, multiple local organizations and politically influential individuals endorse candidates on their own.

The second category consists of recommendations from newspapers and bar associations. Four sources of recommendations on judicial candidates have been demonstrated by previous research to have measurable impacts on judicial voting in Cook County.² The county's two most prominent bar associations, the Chicago Bar Association and the Chicago Council of Lawyers, issue qualification ratings for all judicial primary candidates. The *Chicago Sun-Times* and *Chicago Tribune*, the county's two major newspapers, do not rate every candidate but instead endorse a single candidate in every contest.

The third category consists of ballot cues—specifically, three ballot cues that have attained legendary status in Cook County: gender, Irish ethnicity, and first ballot position. Female candidates are believed to hold a significant advantage over male candidates, a belief borne out by election results over much of the past twenty years.³ The advantage of an Irish-sounding name in Cook County has long been accepted as gospel truth, so much so that several past judicial candidates with non-Irish names have legally changed their names to suggest Irish ancestry.⁴

1. See, e.g., Abdon M. Pallasch, 'If We Slate You, Brother, You're in,' CHI. SUN-TIMES, Sept. 17, 2007, at 14; Abdon M. Pallasch, *Judgment Day*, CHI. SUN-TIMES, Nov. 25, 2001, at 14A; Abdon M. Pallasch, *The Nature of 'The Beast': Time Is Changing How Cook County Dems Slate Judicial Candidates*, CHI. SUN-TIMES, Sept. 20, 2009, at 20A.

2. See Albert J. Klumpp, *The 2007 Judicial Elections—Partisanship, Campaign Spending, & Voter Turnout*, 21 CBA REC. 34, 35 (2007); Albert J. Klumpp, *Judicial Retention Elections in Cook County: Exercise of Democracy, or Exercise in Futility?* (2005) (unpublished Ph.D. dissertation, University of Illinois at Chicago) (on file with author) [hereinafter Klumpp, *Retention Elections*].

3. See, e.g., Andrew Fegelman, *Judicial Races a Boon for Women*, CHI. TRIB., Mar. 19, 1992, at B6; Steve Johnson, *Force That Lifted Braun Carries a Wave of Women to Victory*, CHI. TRIB., Mar. 19, 1992, at A1; Abdon M. Pallasch, *Woman's Place Is on Bench*, CHI. SUN-TIMES, Mar. 25, 2002, at 4.

4. See, e.g., Adrienne Drell, *Irish Candidates' Luck Holds in Judicial Voting*, CHI. SUN-TIMES, Mar. 19, 1998, at 28; Jim Ritter, *Bill Targets Changing Name to Get Elected*, CHI. SUN-TIMES, Oct. 24, 2005, at 5; Joseph R. Tybor & Maurice Possley, *Judicial Candidates Cash in on Names*, CHI. TRIB., Mar. 17, 1988, at B4; James Warren, *Judge Hopefuls Bet on Luck of the Irish*, CHI. TRIB., Jan. 29, 1986, at B1.

As for ballot position, while not yet a settled question, several recent studies have provided persuasive evidence that the candidate listed first on the ballot gains a small but undeniable advantage over his or her opponents.⁵ More relevantly, though, judicial candidates and other candidates in Cook County have long believed the first position to be advantageous. Every election cycle sees hundreds of candidates lining up outside of state and county elections offices on the first day of the candidacy filing period in order to be eligible for the lottery drawing for the first ballot position in their contests.⁶

The final category is campaign spending. Table 4 summarizes the campaign expenditures of candidates in contested primaries since 1980. While the figures do not approach the formidable amounts seen in recent supreme court contests in other jurisdictions,⁷ they certainly indicate that candidates are willing to raise and spend significant sums in the belief that campaign spending will pay dividends at the polls. The question here is whether or not those dividends actually materialize.

III. METHODOLOGICAL ISSUES

Only a few previous studies have attempted to quantitatively analyze large groups of partisan or nonpartisan judicial primaries.⁸ Each study provided valuable information and made a useful contribution to the field, but none produced a methodologically correct statistical analysis from which valid conclusions could be drawn. Understanding the limitations in past studies and what must be done to avoid them requires a brief explanation of the specific obstacles involved.

On its surface, a data set of judicial contests appears temptingly conventional. The vote percentage for each candidate seems the obvious outcome variable, and the electoral variables of the kinds described above could easily be coded for every individual candidate and tested as explanatory variables. A researcher analyzing such a

5. See, e.g., Amy King & Andrew Leigh, *Are Ballot Order Effects Heterogeneous?*, 90 *SOC. SCI. Q.* 71 (2009); Jonathan GS Koppell & Jennifer A. Steen, *The Effects of Ballot Position on Election Outcomes*, 66 *J. POL.* 267 (2004); Joanne M. Miller & Jon A. Krosnick, *The Impact of Candidate Name Order on Election Outcomes*, 62 *PUB. OPINION Q.* 291 (1998); Marc Meredith & Yuval Salant, *The Causes and Consequences of Ballot Order-Effects* (Feb. 15, 2007) (paper presented at the 2007 annual meeting of the Midwest Political Science Association, Chicago, IL), available at http://www.allacademic.com/meta/p198706_index.html.

6. See, e.g., R. Bruce Dold & Daniel Egler, *Politicians by the Hundreds*, *CHI. TRIB.*, Dec. 10, 1985, at B1; Shia Kapos, *Top Ballot Spot Prize in Candidate Lottery*, *CHI. TRIB.*, Dec. 25, 2001, at B3; Ray Long, *Candidates Line up for Next Run*, *CHI. TRIB.*, Dec. 9, 2003, at B3.

7. See generally James Sample et al., *The New Politics of Judicial Elections 2000–2009: Decade of Change* (2010), available at http://brennan.3cdn.net/d091dc911bd67ff73b_09m6yvpvgv.pdf.

8. See *infra* Part IV.

TABLE 4. CAMPAIGN SPENDING BY COOK COUNTY JUDICIAL PRIMARY CANDIDATES, 1980–2010

Nominal Dollars

Vacancy Type	Candidates in Contested Races	Total Spending (\$)	Median Spending (\$)
Supreme	29	4,166,430.22	52,160.00
Appellate	138	4,981,436.11	15,824.07
Circuit	634	11,497,511.32	9,507.00
City (1980–1992)	95	1,062,875.77	8,286.71
Suburbs (1980–1992)	25	277,024.84	8,161.05
Subcircuit (1992–2010)	771	16,023,819.30	12,446.63
TOTAL	1692	38,009,097.56	

Inflation-Adjusted (2010) Dollars

Vacancy Type	Candidates in Contested Races	Total Spending (\$)	Median Spending (\$)
Supreme	29	6,243,273.83	110,298.47
Appellate	138	6,329,186.42	24,181.03
Circuit	634	15,255,999.64	13,923.36
City (1980–1992)	95	1,966,896.19	15,389.60
Suburbs (1980–1992)	25	549,011.32	13,863.47
Subcircuit (1992–2010)	771	19,841,072.79	16,298.98
TOTAL	1692	50,185,440.19	

data set might well be inclined to use a standard statistical procedure such as ordinary least-squares (OLS) regression or one of its common variations, treating each candidate as an independent unit of data. Unfortunately, an analysis of this kind would be completely improper.

The problems begin with the fact that within each contest, the candidates compete against each other for the same votes. This means that the vote total for a particular candidate is directly related to that of his or her opponent(s). Conventional statistical procedures such as OLS regression are based on an assumption of independence among the units in the data set. Candidates in a judicial-contest data set are not independent, so the assumption is violated.

A second problem is that the number of candidates per contest is not fixed. It varies from one contest to another, which substantially affects the vote distribution in each contest. With all else equal, the electorate will disperse its votes more broadly as the number of candidates in a contest increases. Consequently, candidates in different contests cannot simply be amassed into a single data set and analyzed as though they all competed under identical conditions. Since the vote percentage for a candidate is substantially affected by contest

size, it cannot properly be used as the outcome variable. This is another barrier to the use of standard statistical procedures.

A third, similar problem relates to the explanatory variables. The impact of each variable on a candidate's vote percentage is influenced not only by the characteristics of the candidate but also by those of his or her opponents. For instance, if a certain segment of the electorate votes specifically for female candidates, the advantage that a female candidate stands to gain will depend on how many other females are in her contest. If she is the only female, she will gain all of the pro-female votes; if there are other females, she will gain only a portion; and if all of the candidates are female, the advantage disappears completely. Accordingly, it would be incorrect to simply code each candidate as male or female and analyze the gender variable as though it has the same impact in every contest. Gender and all of the other explanatory variables must be formulated in relative terms and not absolute terms.

IV. PREVIOUS RESEARCH

Four different approaches have been employed in previous multivariate statistical analyses of judicial contests. The earliest two studies on the topic used OLS regression to examine groups of contests in Jefferson County, Kentucky and Dade County, Florida.⁹ One study used vote total as the outcome variable; the other used vote percentage. In both studies, the candidates were treated as independent units and the explanatory variables were coded as absolutes.

Two other approaches appeared in subsequent studies. One study, part of a broader report on Cook County judicial elections, classified and analyzed candidates simply as winners or losers.¹⁰ Candidates were treated as independent and explanatory variables were coded as absolutes; moreover, the choice of a rigid win/lose outcome variable deprived the analysis of most of the useful information present in the election results. The other approach, in studies of supreme and appellate court elections, focuses on the performance of an incumbent candidate facing a single challenger.¹¹ While mentioned here for the sake

9. Joel H. Goldstein, *Bar Poll Ratings as the Leading Influence on a Non-Partisan Judicial Election*, 63 JUDICATURE 377 (1980); Mary L. Volcansek, *An Exploration of the Judicial Election Process*, 34 W. POL. Q. 572 (1981).

10. See Lee Epstein & Andrew Martin, *An Analysis of Judicial Elections in Cook County—1988 Through 2000*, in ELECTING JUDGES IN COOK COUNTY: THE ROLE OF MONEY, POLITICAL PARTY, AND THE VOTERS 56, 63–64 (report by the Chicago Appleseed Fund for Justice, 2003).

11. See Chris W. Bonneau, *The Effects of Campaign Spending in State Supreme Court Elections*, 60 POL. RES. Q. 489 (2007); Melinda Gann Hall & Chris W. Bonneau, *Does Quality Matter? Challengers in State Supreme Court Elections*, 50 AM. J. POL. SCI. 20 (2006); Melinda Gann

of completeness, this approach is not relevant to the task at hand. Its use is limited to contests between pairs of candidates from clearly definable groups such as incumbent/challenger or Democrat/Republican.

The fourth approach, in a study of nonpartisan contests in Los Angeles County, California, deserves particular attention because the study correctly recognized and discussed the problems of interdependence of vote totals and explanatory variables within contests.¹² It also used an analytical procedure that, except for correctable minor faults, is intrinsically sound. The procedure is based on an econometric model that was originally developed to study consumer choice behavior and was later applied to a small data set of local elections.¹³

Unfortunately, the consumer-choice approach is not the answer here. This is because the econometric model is entirely multiplicative, with simultaneous interactions among all of the explanatory variables and no independent impacts. In other words, the model assumes that voters possess complete information on every candidate and that they simultaneously weigh all of it in their minds when casting their votes. While this perfect-rationality scenario may be appropriate in some consumer-choice contexts, in the case of low-information, low-visibility judicial contests it simply does not describe reality. Studies of judicial voting have shown without exception that voters are very poorly informed about judicial candidates,¹⁴ and no evidence has ever been produced to support the notion that voters cognitively juggle multiple variables in judicial contests or that interactions take place among variables.

Hall, *State Supreme Courts in American Democracy: Probing the Myths of Judicial Reform*, 95 AM. POL. SCI. REV. 315 (2001); Matthew J. Streb & Brian Frederick, *Conditions for Competition in Low-Information Judicial Elections: The Case of Intermediate Appellate Court Elections*, 62 POL. RES. Q. 523 (2009).

12. See Philip L. Dubois, *Voting Cues in Nonpartisan Trial Court Elections: A Multivariate Assessment*, 18 LAW & SOC'Y REV. 395 (1984).

13. Masao Nakanishi et al., *Voting for a Political Candidate Under Conditions of Minimal Information*, 1 J. CONSUMER RES. 36 (1974).

14. See, e.g., National Center for State Courts, *Call to Action: Statement of the National Summit on Improving Judicial Selection 37–41* (unpublished report 2002), available at http://www.ncsconline.org/d_research/CallToActionCommentary.pdf; see also Anthony Champagne, *Judicial Reform in Texas*, in JUDICIAL REFORM IN THE STATES 93 (Anthony Champagne & Judith Haydel eds., 1993); Voorhees E. Dunn, Jr., *Judicial Reform in Pennsylvania*, in JUDICIAL REFORM IN THE STATES, *supra*, at 117, 117–38; Marie Hojnacki & Lawrence Baum, *Choosing Judicial Candidates: How Voters Explain Their Decisions*, 75 JUDICATURE 300 (1992); Charles A. Johnson et al., *The Salience of Judicial Candidates and Elections*, 59 SOC. SCI. Q. 371 (1978); R. Neal McKnight et al., *Choosing Judges: Do Voters Know What They're Doing?*, 62 JUDICATURE 94, 95 (1978).

The bottom line is that there is no existing example of an analysis that is methodologically sound, is applicable to contests with varying numbers of candidates, and offers a realistic model of the voting process. A new approach is needed.

V. DEFINING THE MODEL

The analytical model used in this study is based on three broad assumptions. First, if there are no variables that convey a net electoral advantage to any candidate in a contest, each candidate will receive an equal share of the votes cast. Second, to the extent that a variable conveys a net advantage in a contest, it will redistribute votes from the disadvantaged candidate(s) to the advantaged candidate(s). Third, the effect size of each variable is consistent across contests.

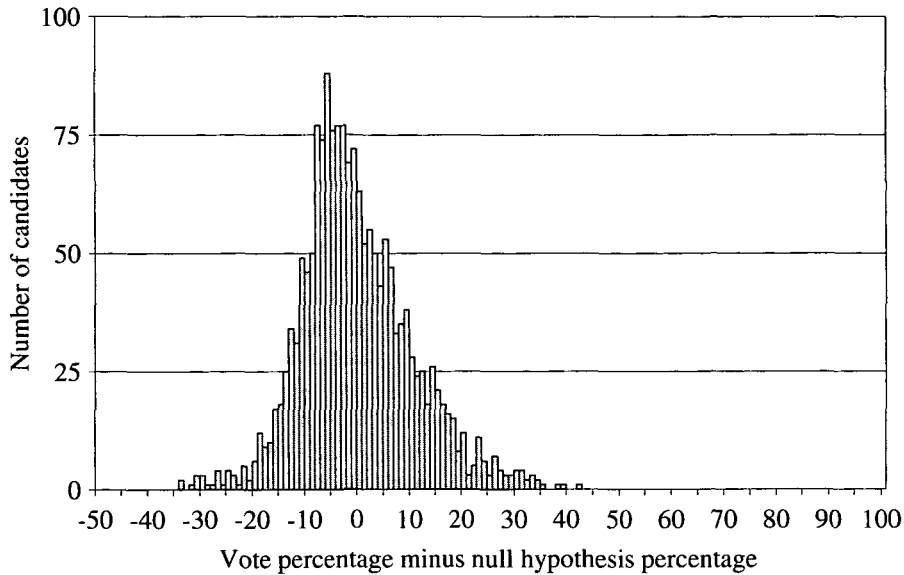
The first assumption is, of course, a fiction. There are winners and losers in all judicial contests, and there are reasons why a candidate wins or loses. The purpose of the assumption is not to describe reality on its own, but to create a null hypothesis that can be applied to different contests with varying numbers of candidates. In a two-candidate contest, the null-hypothesis result would be 50% shares; with five candidates, 20% shares; and with ten candidates, 10% shares.

The second assumption describes the impact of the explanatory variables. A variable that influences voters will increase the vote for some candidates and decrease the vote for others. In other words, the impact is assumed to be redistributive.

These two assumptions make possible an outcome variable that will be used in place of raw vote percentages. The variable is the amount by which the candidates' vote percentages differ from their null-hypothesis percentages. Its expected value will be zero for every candidate, and its actual value will be the net impact of all of the explanatory variables that influence voters (plus random error). This modified variable compensates for variation in contest size. Technically the variable is truncated, with a lower bound of -50 (two candidates, each with a null-hypothesis share of 50, and one candidate receiving zero votes), and an upper bound close to 100 (many candidates, each with a tiny null-hypothesis share, and one candidate receiving every vote). As Figure 1 illustrates, though, when calculated for all of the 1980–2010 Cook County contests, the empirical range of the variable is nowhere near either bound. This eliminates the need for methodological adjustments required by truncated outcome variables.

The third assumption is necessary for measurement of effect sizes across multiple contests. The assumption could be violated if the com-

FIGURE 1. OUTCOME VARIABLE, ALL CANDIDATES 1980–2010



position of the electorate differed across contests, either on the same ballot or in different election years, or if any of the explanatory variables changed in importance over time. In this regard there is good news and bad news. The good news is that for contests appearing on the same Cook County ballot, vote totals are usually consistent to within a few percentage points, indicating that the same group of voters votes on each contest and that large numbers of voters do not jump in and out from one contest to the next. The bad news is that voter turnout in Cook County and the number of votes on judicial contests have varied considerably in different election years. Moreover, there is no basis for assuming perfect stability among the explanatory variables over time, and there are many possible reasons why a given variable could vary in importance from one election year to another. Performing a separate analysis for each election year would sidestep these issues; however, the data sets for some individual election years are too small to adequately test all of the explanatory variables. Consequently, some degree of imprecision in the effect-size estimates may be an unavoidable tradeoff to allow for an adequately large data set.

How do the three assumptions translate into a working model? Table 5 provides an example. It presents several hypothetical contests in a jurisdiction where 8% of the electorate is pro-female and votes strictly based on gender. The first three contests are comprised of

TABLE 5. HYPOTHETICAL JUDICIAL CONTESTS WITH 8%
PRO-FEMALE VOTE

Contest	Candidate	Gender	Null- Hypothesis Vote Pct	Null Share of Pro-Female Vote Pct	Redistribution to Females	Election Result (Pct)	Coding of Dummy Variable
1	A	female	50	4	+4	54	+0.5
1	B	male	50	4	-4	46	-0.5
2	A	female	20	1.6	+6.4	26.4	+0.8
2	B	male	20	1.6	-1.6	18.4	-0.2
2	C	male	20	1.6	-1.6	18.4	-0.2
2	D	male	20	1.6	-1.6	18.4	-0.2
2	E	male	20	1.6	-1.6	18.4	-0.2
3	A	female	25	2	+6	31	+0.75
3	B	male	25	2	-2	23	-0.25
3	C	male	25	2	-2	23	-0.25
3	D	male	25	2	-2	23	-0.25
4	A	female	20	1.6	+2.4	22.4	+0.3
4	B	female	20	1.6	+2.4	22.4	+0.3
4	C	male	20	1.6	-1.6	18.4	-0.2
4	D	male	20	1.6	-1.6	18.4	-0.2
4	E	male	20	1.6	-1.6	18.4	-0.2
5	A	female	20	1.6	+0.4	20.4	+0.05
5	B	female	20	1.6	+0.4	20.4	+0.05
5	C	female	20	1.6	+0.4	20.4	+0.05
5	D	female	20	1.6	+0.4	20.4	+0.05
5	E	male	20	1.6	-1.6	18.4	-0.2

two, four, and five candidates, respectively, with one female in each. The null-hypothesis results in the three contests are 50%, 25%, and 20%, respectively. In each contest the pro-female votes are drawn equally from each candidate's null-hypothesis share; the female retains her pro-female votes, and the votes drawn from the males are redistributed to the female. Note that while the redistribution is different in each contest, the final margin is 8% in all three.

The other two contests in Table 5 include multiple females. In the fourth contest, two females compete against three males; in the fifth, four females compete against one male. In the fourth contest, the redistributed votes are split between the two females; as a result, each gains a 4% advantage over the males. Similarly, in the fifth contest, the redistribution gives each of the four females a 2% advantage over the lone male.

Most of the explanatory variables in the model are dichotomous (male/female or endorsed/not endorsed, for example) and can be represented by simple dummy variables. But instead of the typical

one-zero dummy variable coding, the variables will be coded using positive and negative fractions. The fractions will offset within each contest and sum to zero, representing a pure redistribution of votes. For instance, in the second contest of Table 5, each of the five candidates stands to lose an equal one-fifth share of the pro-female vote. The four male candidates lose their shares; the female retains her share and gains the males' shares. The coding for gender is thus -0.2 for each male and +0.8 for the female. In other contests with different mixes of males and females, different positive and negative codes will represent the same effect size with different redistributions.

To state the model more formally, it will take the standard OLS regression form:

$$Y = a + b_1X_1 + b_2X_2 + \dots + b_nX_n + e.$$

For each contest i , and each candidate j within contest i , the outcome variable is calculated as

$$Y_{ij} = v_{ij} - (100\% / c_i),$$

where v_{ij} is the candidate's actual vote percentage, c_i is the number of candidates in contest i , and $(100\% / c_i)$ is the null-hypothesis vote percentage for each candidate.

With the exception of campaign spending (see below), the attributes represented by the explanatory variables will be coded as described above, based on the presence or absence of the attribute for each candidate and on the number of candidates in each contest who possess the attribute. Candidates who do not possess the attribute are coded with the negative fraction $-1 / c_i$. This represents the loss of a proportionate share of votes related to the attribute. Candidates who possess the attribute are coded with the following positive fraction:

$$\frac{\frac{1}{c_i} * c_{ig}}{c_{ih}}$$

In the above fraction, c_{ig} represents the number of candidates in contest i who do not possess the attribute, and c_{ih} represents the number of candidates who do possess it. The numerator is the total vote lost by all candidates in contest i who do not possess the attribute; the denominator divides that total vote to distribute it equally among the candidates who possess the attribute. The expression can be further simplified:

$$\frac{c_{ig}}{c_i c_{ih}} = \frac{(c_i - c_{ih})}{c_i c_{ih}} = \frac{c_i}{c_i c_{ih}} - \frac{c_{ih}}{c_i c_{ih}} = \frac{1}{c_{ih}} - \frac{1}{c_i}$$

One major advantage of this model is that the analysis can be performed using OLS regression, which allows for estimates of the inde-

pendent effect size of each explanatory variable. However, a special adjustment is required to do so. In OLS regression the t , F , and adjusted- r^2 statistics are calculated based on $(n - k - 1)$ degrees of freedom, where n is the size of the data set and k is the number of explanatory variables. The n units are assumed to be independent. As explained above, though, candidates in contested elections are not independent. In each contest with c candidates, the vote total for the c^{th} candidate is fixed based on the vote totals of the other $c - 1$ candidates. In other words, for each contest there is one less independent unit than the number of candidates. Therefore, with multiple contests in a single data set, the $(n - k - 1)$ figure must be further reduced by the number of contests in the data set to arrive at the true number of degrees of freedom. Standard-error calculations for the regression coefficients must be modified in this manner; otherwise the resulting t statistics would be incorrectly high and would overstate the significance levels of the coefficients. Similarly, without modifying the F and adjusted- r^2 calculations, the values of those two statistics would be incorrectly high and would be too generous in evaluating the fit of the full model.

VI. VARIABLES AND DATA

All of the variables in the four categories discussed above will be included in the analysis. All are concrete, straightforward, and can be operationalized without difficulty. Slated candidates, for instance, are coded positively, and unslated candidates are coded negatively. For subcircuit contests in which different parts of the subcircuit endorsed different candidates, the positive coding for the endorsed candidates is adjusted proportionally, based on the number of votes cast in each portion of the subcircuit. Slating information was gathered from a wide variety of sources including party literature, candidate websites, archives of newspaper articles and advertisements, and in some subcircuit contests directly from local political leaders or from candidates themselves.

Newspaper archives also provided data on bar and newspaper recommendations. Separate variables were formulated for each of the four major sources of recommendations. For the *Tribune* and *Sun-Times* endorsements, the endorsed candidates are coded positively and the unendorsed candidates coded negatively. There is one qualification: between 1996 and 2004 the *Sun-Times* did not issue its own endorsements but instead printed detailed grid charts of ratings from many different bar groups. Candidates with the best collective ratings

in the charts are coded as receiving the *Sun-Times* endorsements in those years.

Bar ratings are generally three-tiered: highly qualified, qualified, or not qualified. The candidate or candidates who earned the highest rating in each contest are coded positively; the others are coded negatively. In contests in which every candidate received the same rating, all of the candidates are coded with zeroes, representing no advantage or disadvantage. Ultimately, because of high correlations among these four variables, the variables were combined into a single four-point scale variable. In combining the four, each was weighted based on its relative effect size in Cook County retention elections: *Tribune* 1.4, *Sun-Times* 0.8, CBA 1.1, and CCL 0.7.¹⁵ This weighting assumes that as in retention voting, some of the information sources are more widely used than others in primary voting.

Also straightforward is the coding for the ballot-cue variables. Female candidates are coded positively and males negatively. Candidates listed first on the ballot are coded positively; the remaining candidates negatively. For Irish names, one variation in coding was added. Candidates with Irish middle or maiden names, or candidates whose surnames have multiple ancestries that include Irish, are coded as half-positives. The “Irishness” of names was determined by research on genealogical websites.¹⁶

Finally, campaign spending is unlike any of the other variables and must be coded differently. While it will be treated as a redistributive, zero-sum variable like the others, it cannot be assumed to have the same influence in every contest because spending patterns differ from one contest to another. In some contests there are substantial spending disparities among candidates, while in others the candidates spend more equally. Contests with greater disparities in spending will be expected to see a greater redistribution of votes than contests in which spending is more uniform. Note that the spending disparity in a contest is not the same as the total spending in a contest. Total spending is not a factor in this redistributive model because if all candidates in a contest spend equally, whether the amount is high or low, no candidate will gain an advantage. What matters is the extent to which candidates outspend or are outspent by their opponents. This dictates the form of the spending variable to be used: the dollar amount by which a candidate’s spending is above or below the mean spending level in his or her contest.

15. See Klumpp, Retention Elections, *supra* note 2, at 105.

16. See HOUSE OF NAMES, <http://www.houseofnames.com/> (last visited Mar. 9, 2011); IRISH SURNAMES, <http://www.irishsurnames.com> (last visited Mar. 9, 2011).

Campaign spending totals were obtained from the Illinois State Board of Elections (ISBE) Web site for recent election years and through an extensive review of ISBE microfiche records for earlier years.¹⁷ The totals are based on the expenditure amounts reported by the candidates for the July 1–June 30 period encompassing their primary contests. All amounts were adjusted to include in-kind contributions and to exclude loan repayments and non-campaign items classified as expenditures under ISBE requirements. Following these adjustments, the net amounts were adjusted for inflation to standardize them across the different election years.

In addition to adjusting the net amounts for inflation, one further adjustment to the spending data is necessary. Countywide Democratic candidates who are slated by the county's party organization are expected to contribute an assessed amount as their share of the organization's campaign expenses. These assessments have ranged from \$5,000 in the early 1980s to \$25,000 in 2008 and 2010. Because the amounts are part of the slating process and not part of a candidate's individual campaign activity, they must be subtracted from the candidates' reported spending totals. Otherwise they will in effect be double-counted and multicollinearity will result.

Once all of the variables were coded, the candidates were grouped into three data sets for analysis. Given the fundamental differences between countywide and subcircuit contests, a combined analysis would be improper, so separate data sets were assembled for countywide Democratic contests, subcircuit Democratic contests, and subcircuit Republican contests. Countywide Republican contests were too few in number and too chronologically dispersed to allow for a sufficient data set.

VII. RESULTS: COUNTYWIDE CONTESTS

The final countywide data set consists of 684 candidates who competed in 146 Democratic contests for circuit court and appellate court vacancies between 1986 and 2010. The supreme court category and the 1980, 1982, and 1984 election years were omitted due to insufficiently small numbers of contests. Also omitted were six contests involving well known local political names because they were overwhelmingly decided on the basis of name recognition.

Table 6 presents the results of the regression analysis on the countywide data set. The results strongly confirm that all six of the explana-

17. See ILLINOIS STATE BOARD OF ELECTIONS, <http://www.elections.state.il.us/CampaignDisclosure/CandidateSearch.aspx> (last visited Mar. 9, 2011).

tory variables convey advantages in the countywide contests. They also reveal the relative importance of each variable. Party slating, a 10.4% advantage, is a valuable asset but not an overwhelmingly powerful one. The female and Irish name cues, advantages of 14.7% and 10.5% respectively, are particularly noteworthy. A single candidate who can monopolize either or both of these advantages in a contest can more than overcome the disadvantage of not being slated.

TABLE 6. RESULTS OF REGRESSION ANALYSES ON COUNTYWIDE DEMOCRATIC CONTESTS

	All data	1986-1992	1994-2000	2002-2010
	1986-2010			
Female	14.67 ***	13.67 ***	16.86 ***	11.86 ***
Irish	10.49 ***	10.59 ***	9.11 ***	9.69 ***
First ballot position	4.54 ***	2.65 *	3.73 ***	7.97 ***
Newspaper/bar rating (per 1 of 4)	2.58 ***	2.84 ***	1.63 ***	3.42 ***
Party slating/endorsement	10.41 ***	7.54 ***	13.41 ***	9.02 ***
Spending advantage (per \$10k)	0.24 ***	0.61 *	0.17	0.20
Constant	0.00	0.00	0.00	0.00
<i>n</i>	684	213	329	142
Number of contests	146	51	57	38
r^2 (adj)	.66	.64	.68	.71
<i>F</i>	175.8 ***	48.6 ***	95.6 ***	43.3 ***

* = significant at .05; ** = significant at .01; *** = significant at .001

The combined impact of the newspapers and bar groups is 10.3%. That is, a candidate who receives the endorsements of both newspapers and the highest rating in his or her contest from both bar groups gains a 10.3% advantage. Of course, the four sources do not always agree on a single candidate, and in many instances two or more candidates in a contest receive the highest bar rating, so the 10.3% is often divided among multiple candidates.

Ballot position also proves advantageous, providing a boost of more than 4.5% to the candidate listed first in each contest. Finally, campaign spending proves to be of little value. The coefficient of 0.24 per \$10,000 of spending advantage means that a candidate who outspends his or her opponents by \$50,000 will gain only 1.2% of the vote.

Overall the model accounts for nearly two-thirds of the variability in the outcome variable, despite the span of the data set across thirteen elections with widely varying voter turnout. Examination of the residuals reveals that the remaining variability is not substantially correlated with election year, as was speculated; instead, much of it ap-

pears to be linked to other name characteristics besides gender and Irish ethnicity. In particular, the larger outliers indicate that voters have at times reacted unfavorably to certain other ethnicities (although the data set is not diverse enough to be able to generalize about specific ethnicities). Also, some Irish surnames fare better than others with voters. Contests with surnames that are Irish but less common tended to produce larger residuals, suggesting that the coding scheme of Irish/half-Irish/not Irish is a bit of an oversimplification.

Election-year variability cannot be entirely dismissed, though. Quite the contrary—single-year regressions were run for each of the thirteen election years, and while most were too limited by small data sets to be entirely useful, several revealed instances in which individual variables were affected by election-specific external factors. For example, in the 2008 primary, when locally born and raised Hillary Clinton was competing for the Democratic presidential nomination and voter turnout was extremely high, the advantage for female judicial candidates was more than 20%. But in the very next primary, which saw much lower turnout and a widely reported mood of discontent among the electorate—strongly reminiscent of the “angry white male” electorate of 1994¹⁸—the female advantage plummeted to 5%. Both results are highly statistically significant and are corroborated by the results of subcircuit contests (strong showings by female candidates in 2008 but little apparent advantage in 2010). These are the most extreme examples, but other evidence scattered throughout the thirteen elections also supports the notion that the idiosyncrasies of both the electorate and the top-of-ballot contests in each individual election can affect the results of judicial contests.

Is there evidence of a more gradual change over time in any of the explanatory variables? To find out, the data set was divided into three subsets of sufficient size for analysis: 1986–1992, 1994–2000, and 2002–2010. Table 6 above reports the regression results for the three subsets. While small differences among the regressions would be expected due to random chance, several results appear worthy of attention: an apparent rise and fall in the values of gender and slating; an opposite movement in recommendation use; an increase in the value of ballot position; and a decrease in the effectiveness of campaign spending. Some of these results are more easily explained than others (see Part IX).

18. David Paul Kuhn, Op-Ed., *Revenge of the White Men*, L.A. TIMES, Mar. 22, 2010, at A17.

VIII. RESULTS: SUBCIRCUIT CONTESTS

The subcircuits offer a valuable opportunity for comparisons, not only between subcircuit contests and countywide contests, but also among contests in different subcircuits with electorates of varying ethnic and socioeconomic characteristics. The one impediment to performing these comparisons is that because the subcircuit system is less than twenty years old, the number of contests held in each subcircuit—an average of only thirteen—is not yet large enough to fully analyze individual subcircuits. Fortunately, with some judicious grouping of similar subcircuits, several useful sets of results were generated. The top half of Table 7 below presents the regression results for three subcircuit groups.

Subcircuits 9, 10, and 11 (the 9-10-11 group) cover the near-northern suburbs, along with some near-western suburbs and the far north and northwest sides of Chicago. Included in the subcircuit are many of the county's highest-income and best-educated communities. Several of the regression results for this group are noticeably different from those of the countywide contests. The name-cue advantages are less valuable, and oddly enough there is no detectable ballot-position advantage. Also, campaign spending is much more effective than in the countywide contests. A candidate who can outspend his or her opponents by \$50,000 can gain a 7.1% advantage in votes.

Subcircuits 4, 12, 13, and 15 cover the outer-ring suburbs. Most of the contests in these four subcircuits have been Republican; although the last few elections have seen an increase in Democratic contests, the data set at present is sufficient for analysis only on the Republican side. The regression results for the Republican contests show that campaign spending pays off at similar rates as in the 9-10-11 group Democratic contests. Slating, however, is much more valuable, and first ballot position does convey an advantage. In addition, the advantage for female candidates is smaller than in the countywide contests, but is roughly equal to that of the 9-10-11 group.

Subcircuits 1, 2, 5, and 7 are black-majority subcircuits covering the west and south sides of Chicago, along with some near-southern suburbs. They include many of the county's lowest-income and least-educated communities. For this group, the analysis was modified after the initial results showed a poor model fit, and the initial residuals showed a strong voter preference for names most likely to be names of African-American candidates. Using a U.S. Census-derived list of the 500

TABLE 7. RESULTS OF REGRESSION ANALYSES
ON SUBCIRCUIT CONTESTS

	Democrat 9, 10, 11	Republican 4, 12, 13, 15	Democrat 1, 2, 5, 7
Female	9.85 ***	10.43 ***	11.29 ***
Irish	8.13 ***	10.59 ***	
African-American			24.79 ***
First ballot position	1.25	4.43 **	3.82 *
Newspaper/bar rating (per 1 of 4)	3.03 ***	2.80 ***	1.29 *
Party slating/endorsement	9.05 ***	14.48 ***	14.78 ***
Spending advantage (per \$10k)	1.42 ***	1.49 ***	1.91 ***
Constant	0.00	0.00	0.00
<i>n</i>	181	156	162
Number of contests	37	49	45
r^2 (adj)	.64	.70	.62
<i>F</i>	44.2 ***	41.8 ***	32.9 ***

	Democrat 8	Democrat 3	Democrat city (1986-92)
Female	17.10 ***	7.56	14.63 ***
Irish	6.93 **	13.74 *	8.44 **
First ballot position	4.30 **	5.98	6.18 **
Newspaper/bar rating (per 1 of 4)	3.11 ***	4.30 **	2.59 **
Party slating/endorsement	13.47 ***	22.82 ***	10.46 ***
Spending advantage (per \$10k)	0.37 *	0.91	1.39 *
Constant	0.00	0.00	0.00
<i>n</i>	71	47	87
Number of contests	14	13	21
r^2 (adj)	.78	.79	.66
<i>F</i>	34.8 ***	21.1 ***	22.6 ***

* = significant at .05; ** = significant at .01; *** = significant at .001

Note: One 9th Subcircuit contest was omitted due to name recognition.

most common African-American surnames,¹⁹ a new name-cue variable was coded in the same manner as the Irish variable and was substituted into the regression for the Irish variable (which was statistically

19. *Most Common Last Names*, MONGABAY.COM, <http://names.mongabay.com/data/black.html> (last visited Mar. 9, 2011).

insignificant). The modified results, reported in Table 7, dramatically show that the four subcircuits give strong support to candidates with African-American surnames. Campaign spending proves productive once again, at a rate even slightly higher than in the suburbs, and slating is worth a substantial 14.8%. Slating in many of these contests has tended to be less unified and more community-based than in other subcircuits, but as the results show, even a local endorsement in part of a subcircuit can pay off. One other important result is the low usage of newspaper and bar recommendations. The result of 1.3% per source, or 5.6% total, is statistically significant but noticeably lower than in the rest of the county.

The bottom half of Table 7 reports results from analyses of three small sets of contests. None of the sets is large enough for a satisfactory analysis of all variables, but each produces at least one meaningful result. Subcircuit 8, for instance, borders the Chicago lakefront from just south of the Chicago Loop northwards to near the city limits. It includes the so-called lakefront liberal city wards and is arguably the most liberal of the fifteen subcircuits. Regression results for the subcircuit show a 17% advantage for female candidates—the county's largest gender advantage.

Subcircuit 3 consists mainly of the far southwest side of Chicago. One of the subcircuit's distinguishing characteristics is the presence of strong local political organizations; another is a substantial population of Irish ancestry. Table 7 shows just how strong the political organizations can be, providing more votes for a subcircuit-wide endorsement than anywhere else in the county. Likewise, the 13.7% advantage for the Irish name cue is also the county's highest, although not as high as might be expected (possibly because of the small data set; note the significance level of only .05).

The final set of results in Table 7 is not from the current subcircuit system, but rather from the city-only contests that were discontinued after the subcircuit system was implemented. It is included here for comparison to the analysis of countywide contests for the same 1986–1992 time period, reported previously in Table 6. The most significant difference is the stronger influence of slating in the city than in the suburbs, which comes as no surprise. At 10.5% in the city contests and 7.5% in countywide contests, the suburban figure is obviously well below 7.5%. Also of greater value in the city contests is first ballot position. Finally, as with the subcircuits, campaign spending has a much more substantial impact in the city contests than in the countywide contests.

There is one important point not reflected in Table 7. Although it cannot yet be proven statistically, scattered evidence strongly suggests that surname advantages in subcircuit contests are not limited to the black and Irish subcircuits. Candidates with Hispanic, Polish, and Jewish names all appear to gain significant advantages in subcircuits with matching ethnic populations. Measuring the sizes of these advantages will require more contests in future elections to build up the data sets for those subcircuits.

IX. DISCUSSION

A. *Name Cues*

Democratic Party leaders in Cook County are known to be wary of the effects of female and Irish names in judicial primaries. In fact, the party has been known to recruit ringers—individuals with female names, Irish names, or both, who promise to engage in no campaign activity whatsoever—and strategically place them in countywide contests where a slated candidate is at a name-cue disadvantage. The results of this study demonstrate that the party has good reason to be wary. A single Irish-named female candidate in a countywide contest will attract enough votes to overwhelm the advantage of party slating, and in addition can offset all of the potential advantage of bar and newspaper recommendations. Consequently, the number of female and Irish-named candidates in the contest plays a pivotal role in determining the victor.

The name-cue advantages are not constants, though. As discussed above, the size of the gender advantage is dependent on the type of electorate that turns out and votes in a given election. It also has shown longer-term variability. Female candidates for judgeships and other offices saw a surge in voter support in the aftermath of the controversial Clarence Thomas Supreme Court hearings of 1991.²⁰ The results in Table 6 suggest that this support endured for several elections, but as more women have won elective offices and the political gender gap has gradually narrowed, the pro-female vote has lessened somewhat. The surname advantages can also vary, but the variation found in this study is geographical rather than temporal. A surname that proves to be a powerful asset among one electorate can be of no value in another and might even be a liability.

20. See *supra* note 3 and accompanying text.

B. Party Slating

Slating, like gender, has fluctuated in value over time. Judicial elections in the mid- and late 1980s took place in the shadow of Operation Greylord, the long-running investigation of judicial corruption in Cook County that was first revealed to the public in August of 1983. Greylord clearly caused voters to distrust the county Democratic Party's selection of judicial candidates, so much so that in the 1984 primary, voters actually rejected the entire party slate in the six contests on the ballot. Table 6 suggests that this distrust endured to a lesser extent for several more elections, until Greylord eventually disappeared from the headlines. And while slating did return to a historically higher level, in more recent elections it appears to have lost value again. With the heyday of the county's Democratic machine long since passed, and with voters increasingly reluctant in recent years to align themselves with any political party at all, some loss of slating value seems inevitable. Nevertheless, as shown by the subcircuit regressions, local political organizations are still capable of delivering substantial numbers of votes to slated candidates, both Democratic and Republican.

C. Ballot Position

Some of the more puzzling results to emerge from the regressions were produced by the ballot position variable. For instance, why does the first-position advantage disappear in the 9-10-11 group? It might simply be a statistical anomaly, but there is a more substantive explanation. Among the ballot position studies cited above are isolated findings that the first position is less influential in areas where voters are better informed politically²¹ and among older voters and in areas where fluency in English is highest.²² The 9-10-11 group fits all of those characteristics; its suburban townships and city wards have some of the highest educational levels in the county as well as the highest median ages. This is probably not a coincidence.

Harder to explain is the apparent increase in the first-position advantage over time, and especially the measurement of an eight-point advantage in the 2002–2010 period. It might be tempting to see this increase as evidence of voters gradually becoming less politically informed and more susceptible to ballot cues. However, the female and Irish name cues do not show the same consistent increase. Why one cue and not the others? Another possibility is that the increase is

21. Miller & Krosnick, *supra* note 5, at 316.

22. King & Leigh, *supra* note 5, at 85.

somehow connected to the new voting equipment introduced in Cook County in the aftermath of the 2000 presidential election. Ballot design and ballot configuration can have substantial effects on judicial elections,²³ so there might be some unrecognized causal influence that amplifies the first-position advantage in the newer optical-scan and touch-screen voting systems. For now this is only speculation; the question will have to remain unanswered until more time passes and more contests become available for analysis.

D. *Newspaper and Bar Association Recommendations*

The aftermath of every primary election in Cook County produces predictable grumbling about the failure of the electorate to follow newspaper and bar association recommendations in judicial contests. The results in Tables 6 and 7 show that while recommendation use is far from insignificant, it can be negated by slating and overwhelmed by ballot cues. Can the situation be changed? Clues provided by several of the regression results suggest that the impact of recommendations can be increased.

The chronological analysis presented in Table 6, and an examination of the single-year regressions discussed above, reveals a decrease of roughly 40% in recommendation use that coincides with the absence of *Chicago Sun-Times* endorsements of judicial candidates beginning in 1996. The detailed grid charts of bar association ratings that the *Sun-Times* printed between 1996 and 2004 in place of its own one-name-per-contest endorsements appear to have been largely or entirely disregarded by the newspaper's readership. The resumption of *Sun-Times* endorsements in 2006 coincides with a rebound in total recommendation use to the pre-1996 level and even slightly above. This mirrors an important finding of research on judicial retention elections: simpler information is better. Complicated forms of voter information are not well-received by the electorate, to put it mildly; only the simplest, clearest recommendations have any hope of being retained and acted upon by voters who are much more focused on top-of-ballot contests.²⁴

The biggest single surprise in any of the jurisdictions or time periods analyzed in this study is the 12.1% total recommendation use in the 9-10-11 group. Why is that number not substantially higher? In Cook County retention elections, recommendation use is highly correlated

23. See Klumpp, Retention Elections, *supra* note 2, at 236–37.

24. *Accord id.* at 234.

with educational level.²⁵ Here, though, the 12.1% level in the highly educated 9-10-11 group is only slightly higher than the 10.3% level in the countywide contests. Assuming that it is not a statistical anomaly, this finding is a mystery. One possible explanation may involve the subcircuit boundaries. Some of the subcircuits are highly gerrymandered, including 10 and 11 and the western half of 9. In addition, the subcircuit boundaries are unrelated to those of any other state or county governmental unit. It may be that many voters simply do not know or remember which subcircuit they live in, and consequently do not know which recommendations apply to their ballot. A voter survey would cast valuable light on this question. If supported by evidence, a case could be made for adjusting the subcircuit boundaries to correspond with familiar units such as wards and townships.

One other important finding, this one consistent with the correlation between educational level and recommendation use in retention voting, is the low rate of recommendation use in the 1-2-5-7 subcircuit group. It could be that voters in those subcircuits rely on different sources of recommendations such as community newspapers or minority bar associations, but there is no visible evidence in the election results or regression residuals of other sources being used. These voters constitute a large and under-tapped pool that could greatly increase the overall impact of recommendations. Engaging these voters and convincing them to use recommendations would require targeted voter outreach and education efforts by bar associations and other civic groups.

E. Campaign Spending

It should come as no surprise that campaign spending in countywide contests has little effect. Bottom-of-the-ballot judicial contests are of little interest to most voters, and the sheer size of Cook County makes it difficult for a judicial campaign to attract the attention of a meaningful proportion of the electorate. It also is not surprising that spending has become less effective over time, as Table 6 indicates. Campaigns for top-of-ballot offices have become so much more expensive and pervasive in recent years that judicial contests are being increasingly drowned out.

The subcircuits, though, are a different story. Since each subcircuit is only one-fifteenth as large as the county, a judicial campaign can reach a much larger percentage of the electorate per dollar. And with enough funding, a subcircuit campaign has a relatively better chance

25. *See id.* at 218–21.

of rising far enough above the fray to attract voter attention than does a countywide campaign. Table 7 shows that this is exactly what is happening in the subcircuits. Candidates with large campaign funds are able to turn those dollars into significant numbers of votes.

But this raises a troubling possibility. The subcircuit system was implemented based on the belief that it would increase the chances for minorities and Republicans to be elected to the judiciary, and lessen the influence of countywide Democratic slatemakers. Whether or not this has actually happened, the regression results show that the system has increased the electoral opportunities of a different group: the wealthy. There exists at least the potential for independently wealthy individuals to try to use subcircuit elections as their own direct route to the judiciary, or else as a way for wealthy individuals or interest groups to populate the court system with judges who share their political views. And in fact, recent election cycles have seen an increase in subcircuit candidates who spend more than \$100,000 on their primary campaigns. Whether or not this trend continues, and whether or not it will ultimately work against the system's diversity goals, both remain to be seen.

X. CONCLUSION

The goal of this study was to produce a viable model for analyzing judicial primary elections. Just as this study builds upon previous efforts, hopefully future studies will be performed to build upon this one. The strengths and weaknesses of the redistributive approach need to be better understood, and the model needs to be applied to more and varied settings to evaluate its overall effectiveness. Nevertheless, the model has shown here that it can successfully navigate the methodological obstacles presented by primary contests and produce a clear and complete picture of judicial voting patterns in a large, urban jurisdiction. It also allows for side-by-side comparisons of voting patterns in partisan and nonpartisan primaries.

The specific findings of this study regarding judicial voting in Cook County will certainly be welcomed by those in the county who oppose the use of partisan elections to choose judges. But it is not enough to simply argue that the system is flawed or that contests can be decided by variables of little or no merit. Supporters of other selection methods need to produce convincing evidence that those methods produce a better-quality judiciary. In the absence of any such evidence, there is simply no compelling case for abandoning partisan elections and no persuasive argument to refute those who favor and defend the status

quo. An electorate jaded by decades of governmental corruption will hardly be likely to support a drastic change to its entire judicial branch based on faith alone. So the system will remain, for better or worse.

