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THE COST OF GOING FOR THE GAVEL: INDIVIDUAL CANDIDATE SPENDING IN INTERMEDIATE APPELLATE COURT ELECTIONS*

BRIAN FREDERICK AND MATTHEW J. STREB

Substantial research in recent years has studied judicial campaign spending. Most of this research has concentrated on state supreme court elections. Less is known about candidate spending in lower-level judicial elections. Moreover, research has focused on the costs of campaigns with the race as the unit of analysis. This study probes patterns of spending by 470 candidates in all contested races for state immediate appellate court seats from 2000 to 2009. It makes the first comprehensive evaluation of the systematic factors that drive spending in lower-level judicial elections with the individual candidate as the unit of analysis. It explores several different explanations for variations in spending, as well.

Once compared to playing a game of checkers by mail because of the view that they were sleepy affairs (Bayne, 2000), a new wave of interest has emerged in judicial elections largely because of the so-called new politics of these elections (Goldberg, Holman, and Sanchez, 2002).¹ Although there is little debate that this new politics has made judicial elections more fascinating to study, whether it is a positive for the judiciary has been subject to intense argument (see Bonneau and Hall, 2009 vs. Brandenburg and Caufield, 2009). Particularly contentious is the role that money plays in these elections. The controversy over money reached a crescendo in a 2004 West Virginia Supreme Court election when the CEO of Massey Coal spent roughly \$3 million independently in support of the campaign of a little-known attorney, Brent Benjamin, and in opposition to incumbent Justice Warren McGraw. Benjamin went on to defeat McGraw and then found himself as the deciding vote in a case overturning a previous verdict against Massey Coal. Cases like this one amplify the continued controversy of the role money plays in contests for the judiciary.

Although there has been much ink spilled raising concerns about campaign spending in judicial elections, scholars are still learning about the role money plays and patterns of spending in these contests. Judicial reform organizations, such as Justice at Stake, have published reports documenting basic descriptive statistics of candidate spending in supreme court elections (e.g., Goldberg, Holman, and Sanchez, 2002).

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¹ Certainly, this is not to imply that no one was interested in judicial elections before this "new politics" emerged. Indeed, Hojnacki and Baum (1992) documented these "new style" campaigns well before the Justice at Stake reports were compiled.

While helpful, this information is far from systematic. Bonneau (2004, 2005, 2007b, 2007c) has published several studies at the supreme court level examining campaign spending, and Frederick and Streb (2008a) have done so at the intermediate appellate court level (IAC). Yet this work generally looks at how electoral context and institutional factors affect total spending in a race; it says nothing about the individual candidate characteristics that may influence how much money a candidate spends.² This void is problematic, because although scholars have an idea of factors that influence candidate spending at an aggregate level, little is known about the variables that influence campaign spending at the candidate level. It is our goal to fill this void.

In this article, we analyze the spending of 470 candidates who ran in contested IAC races from 2000 to 2009.³ Our primary objective is to provide the first systematic account of individual candidate spending in lower-level judicial offices. This analysis is meaningful, because it tells us something about the kinds of candidates who are likely to succeed when running for judge. Moreover, the extremely low information nature of most IAC elections is important because it is unclear whether findings for elections for more visible offices apply in low-information contests.⁴ We do not know, for example, whether candidates who are female or racial and ethnic minorities are able to spend at the same levels as their male and Caucasian counterparts. Evidence from other offices indicates that females are not at a disadvantage when it comes to campaign spending (Burrell, 1994, 2008; Hogan, 2007), but that racial and ethnic minorities may be regarding fundraising (Wilhite and Thielmann, 1986; although see Bonneau, 2007a). Additionally, it is unknown whether different types of candidates are advantaged compared to others. One consistent finding of congressional elections is that candidates who are considered to be quality challengers are able to raise more money (hence, be more of a threat to incumbents) than non-quality challengers (e.g., Jacobson, 2009). As it relates to judicial elections, there is competing evidence regarding whether the quality of the challenger matters in terms of electoral success. Hall and Bonneau (2006) find challenger quality is a significant predictor of success at the supreme court level, but Streb and Frederick (2009) do not find a relationship at the IAC level. An analysis of candidate spending based on candidate type may help to explain Streb and Frederick's findings.

² Bonneau (2007a) examines fundraising at the candidate level in supreme court elections, not campaign spending.

³ The data were collected from campaign finance reports on various state election Web sites. In a handful of cases no report was filed or the report no longer existed. These candidates constituted less than 1 percent of the sample. We chose campaign spending as our dependent variable in this study, rather than fundraising, primarily for data-availability reasons. In some cases, states only had reports of spending available and not reports of total funds raised. However, since most candidates tend to spend most of what they raise, the difference between each measure is probably negligible.

⁴ Although they do not generate a significant amount of enthusiasm from the public—or even most scholars—IAC elections are important in their own right. The volume of litigation handled by IACs is substantial, given that “generally speaking, the jurisdiction of intermediate appellate courts is mandatory because Americans hold to the view that parties in a case are entitled to at least one appeal” (Carp, Stidham, and Manning, 2004:65). As a result, it is important to understand the processes in which IAC judges obtain the bench.

Another finding that virtually borders on law from elections for other offices is that incumbents spend more money than challengers. This result is not surprising given that incumbents already have a pool of donors from which to raise money, and because they are significantly more likely to win than challengers, people are more apt to donate. However, although raising money is part of the job when you are a congressperson or state legislator, it is generally considered to be an unseemly activity in which judges should not take part. Indeed, many states prohibit judges from directly accepting campaign contributions. As a result, judges may have contempt for the role of money in judicial elections and resist spending substantial sums of it, especially if they fear that campaign spending will undermine their impartiality in the eyes of the public.

Overall, our findings indicate that candidates in IAC elections tend to spend considerably less money than supreme court candidates. However, similar to elections for other offices, we find that incumbents spend more than challengers. Moreover, there is a relationship between the quality of a challenger and the amount of money spent; holding other variables constant, quality challengers (both in incumbent/challenger and open-seat contests) spend more than non-quality challengers. However, a candidate's gender or race or ethnicity is not a significant predictor of candidate spending. A few institutional- or electoral-context variables are significant as well. For example, when the salary of the judge is higher, candidates' campaigns spend more money. Additionally, the closer the race, the more money candidates spend.

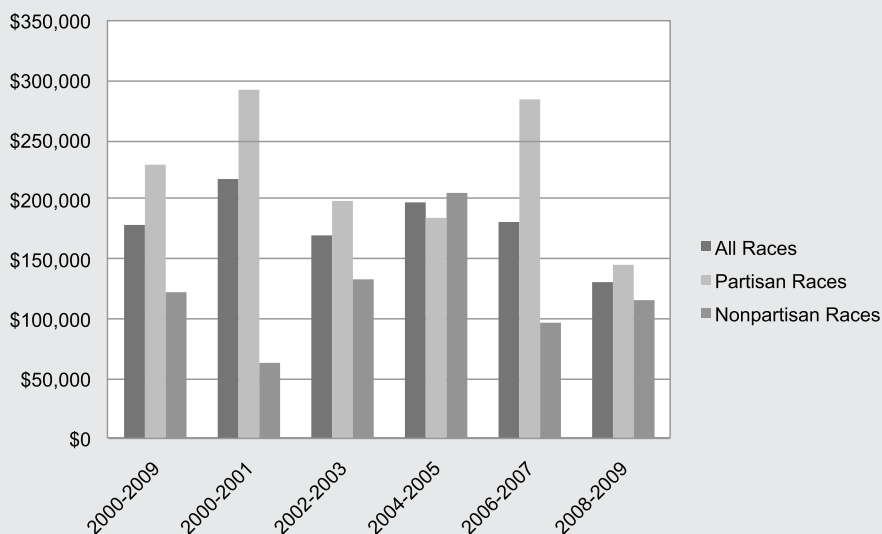
We begin by discussing patterns of spending by different types of IAC candidates. We then develop our model regarding individual-level candidate spending and report the results. We conclude with a discussion of the implications of the findings.

PATTERNS OF SPENDING BY DIFFERENT TYPES OF IAC CANDIDATES

Before explaining the models predicting candidate spending and the estimation technique, it is useful to examine patterns of spending by different types of IAC candidates in recent years. Figure 1 presents the mean campaign spending by candidates in IAC elections from 2000 to 2009, adjusted for inflation in 2009 dollars. The average candidate spent about \$180,000 over this period. Beyond this top-line number, there are two key points worth highlighting. First, in every election cycle but one (2004-05), candidates spent more in partisan judicial races than in nonpartisan contests. The 2004-05 result is due to an outlier; a candidate for the Georgia Court of Appeals—a nonpartisan office—spent more than three million dollars of his own money to win a seat on the bench.⁵ Over the course of the study, the average candidate in partisan races spent \$229,258, while the average candidate in nonpartisan races spent \$122,492. Some of the differences in campaign spending based on election type were particularly large. For example, in the 2000-01 cycle, candidates in partisan contests spent \$292,066 compared to those in nonpartisan contests, who expended approxi-

⁵ When median spending is used, partisan elections are more expensive in every cycle.

Figure 1
Campaign Spending by Candidates in IAC Elections, 2000-09



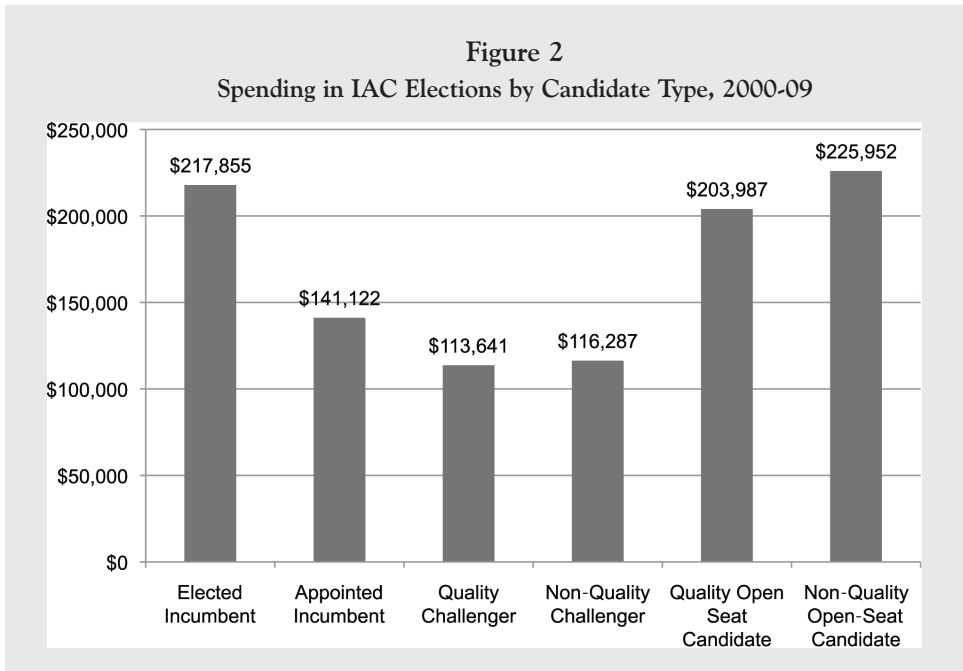
mately \$63,213. However, in the most recent cycle in the analysis (2008-09), the difference between candidate spending in partisan and nonpartisan contests was a minimal \$30,000.

Second, contrary to concerns about rising costs of judicial elections at the supreme court level (see, e.g., Sample, Jones, and Weiss, 2007), IAC elections are not getting increasingly expensive. In fact, the election cycle in which candidates spent the most money was the first cycle included in the analysis (2000-01); the election cycle in which the least was spent was the last cycle (2008-09). Based on these results, it appears that the “new politics of judicial elections” (Goldberg, Holman, and Sanchez, 2002) has not trickled down to the IAC level.

Figure 2 breaks down spending by candidate type. Again, a few interesting results emerge. First, consistent with candidates for other offices such as Congress and state legislatures (Jacobson, 2009; Gierzynski and Breaux, 1991; Hogan, 2000), incumbent IAC candidates spend more than challengers.

Second, there is a difference in spending between appointed versus elected incumbents. One unique aspect of judicial elections is that many incumbents are first appointed to the bench to fill a vacancy due to death, resignation, or retirement (Sheldon and Maule, 1997). Although they still spend more than their challengers, on average appointed incumbents spend less than elected incumbents.

Third, candidates in open-seat elections spend an amount of money comparable to elected incumbents. Again, this result is consistent with elections for other offices



(Burrell, 2008; Jacobson, 2009; Abramowitz and Segal, 1992; Bonneau, 2004, 2005; Hogan, 2000). Without an incumbent to run against, open-seat elections are likely to be more competitive, which, in turn, will cause them to be more expensive.

Fourth, and most interesting, there is not a major difference between the amount of money spent by quality challengers—defined here as whether the candidate has been previously elected as a judge—and non-quality challengers. In fact, in both races against incumbents and open-seat contests, non-quality challengers actually spend, on average, minimally more than quality challengers. Although the first three results related to this figure are not particularly surprising because they are consistent with the findings for other offices, this result is inconsistent with other studies comparing candidate-spending levels by challenger quality (Bardwell, 2002; Jacobson, 2009).⁶ Of course, whether any of these relationships hold in a more complex model is yet to be seen. The next section outlines the systematic factors we expect to predict candidate spending in IAC races.

MODELS PREDICTING CANDIDATE SPENDING

Dependent Variables. We employ two alternative measures of candidate spending in IAC elections. The first is simply a measure of the total amount of money spent by the candidate in the election. To adjust for inflation, we recalculated the level of

⁶ When using fundraising as a measure instead of campaign spending, Bonneau (2007a) finds that this relationship between challenger quality and money exists at the state supreme court level.

spending in 2009 dollars. Consistent with most studies of campaign spending in judicial elections (Bonneau, 2005; Bonneau and Hall, 2009; Frederick and Streb, 2008a; Hall and Bonneau, 2008) we compute the log of total spending to reduce the influence of outliers (*log of total spending*). In the second model, spending is operationalized in a similar fashion with one variation. Here spending is measured on a per capita basis, with total spending divided by the voting-age population in the state or district (in 1,000s). Employing *per capita spending* as a dependent variable allows us to discern how robust the predictors of spending are in an alternative model specification while estimating how the variables influence spending for each potential voter with which the candidate must communicate.

Independent Variables. The independent variables in the models predicting candidate spending reflect the individual characteristics of the candidates, the institutional arrangements of the state or districts where the candidates seek office, and election-specific contextual factors that shape the races in which candidates run. With the exception of the inclusion of the individual characteristics of the candidates, this framework is largely consistent with earlier studies exploring the dynamics of spending in judicial elections (Bonneau, 2005; Frederick and Streb, 2008a). Table 1 provides a summary of how all of the dependent and independent variables in the models are operationalized.

Individual Candidate Characteristics. The individual attributes of candidates are likely to dictate how much they spend in IAC races.⁷ Whether the candidate is an incumbent, challenger, or open-seat contestant should determine variation in expenditures. Drawing on the previous research in this area, we identify six different types of candidates based on their level of experience. By virtue of their positions, incumbent officeholders tend to have access to donors that facilitate a stronger fundraising apparatus that will, in turn, lead to a capacity for higher spending (Hetherington and Larson, 2010; Jacobson, 2009). As noted, one factor in judicial elections that distinguishes incumbency from other elected positions is the reality that many judges attain their positions through appointment rather than election (Sheldon and Maule, 1997). Hence, appointed incumbents with a shorter tenure on the bench may not be able to avail themselves of these fundraising sources as easily. Frederick and Streb (2008a) show that spending in IAC elections with an appointed incumbent tends to be lower than in other types of races. The present model allows us to test whether the spending rates of appointed incumbents themselves is higher or lower than other types of candidates. To do so we formulate a dummy variable indicating whether the candidate was an incumbent who has not previously been elected to the position (*Appointed Incumbent*). The excluded category in the models is incumbents who have been previously elected.

⁷ One individual candidate characteristic we cannot account for is personal wealth. Certainly, candidates with a high net worth and a willingness to devote that largess to seeking elected office would have the ability to spend more. However, because many states did not publish line-item reports of how much spending came from the candidates' own funds, we were not able to include this variable in the models tested here.

Table 1
Variable Descriptions for Models of Campaign Spending in IAC Elections

Variable	Variable Description
Dependent Variables	
Candidate Spending	= log of total spending by the candidate (2009 dollars)
Per Capita Candidate Spending	= log of total spending by candidate / the voting-age <i>population</i> of the state or district (1,000s)
Independent Variables	
<i>Characteristics of the Candidate</i>	
Appointed Incumbent	= 1 if the candidate was appointed and facing election for the the first time; 0 otherwise
Quality Challenger	= 1 if the challenger has judicial experience; 0 otherwise
Non-Quality Challenger	= 1 if the challenger has no judicial experience; 0 otherwise
Quality Open-Seat Candidate	= 1 if the open-seat candidate has judicial experience; 0 otherwise
Non-Quality Open-Seat Candidate	= 1 if the open-seat candidate has no judicial experience; 0 otherwise
Female	= 1 if the candidate is female; 0 otherwise
Minority	= 1 if the candidate is a racial or ethnic minority; 0 otherwise
<i>Institutional Arrangements</i>	
Partisan	= 1 if the race was partisan; 0 otherwise
District	= 1 if the race was in a district; 0 otherwise
Regulation	= <i>Witko</i> (2005) index on campaign finance stringency
Term Length	= length of state's IAC term
Salary	= IAC salary/state per capita disposable income, in dollars
Multimember	= 1 if the election was for a multimember district; 0 otherwise
<i>Electoral Context</i>	
Margin of Victory	= margin of victory for the winning candidate in election
Number of Seats	= <i>number</i> of IAC seats in the state up for election-
Voting-Age Population	= size of the voting-age population in the state or district (1,000s)
2002-03, 2004-05, 2006-07, 2008-09	= 1 if the election occurred in the designated year; 0 otherwise

We also include dummy variables representing the four types of nonincumbent candidates. If IAC elections are consistent with elections for other offices, nonincumbent candidates ought to spend less in IAC elections than incumbent judges. However, this relationship should vary based on the level of experience of the candidate in the race. Candidates who have held office previously tend to be better-quality candidates than candidates who have not (Jacobson 1989, 2009), an advantage that we expect to translate into higher rates of spending. In studies of judicial elections, the customary practice of assessing whether a candidate is a quality challenger or open-seat candidate is whether the candidate has been previously elected as a judge (Bonneau and Hall, 2003; Hall and Bonneau, 2006; Peters, 2009; Streb and Frederick, 2009). In our model specifications we follow the same standard. Additionally, since the odds of victory are higher for open-seat candidates than for challengers, they should have a relative spending advantage independent of judicial experience. With both of these factors in mind, we construct four separate dummy variables representing four types of nonincumbent candidates: *quality challengers*, *non-quality challengers*, *quality open-seat candidates*, and *non-quality open-seat candidates*.

We expect that two other candidate characteristics, gender and race/ethnicity, could also be useful in understanding the dynamics of candidate spending. Contrary to the conventional wisdom, the body of research on gender and campaign finance reveals that women are not at a significant disadvantage in the fundraising process relative to their male colleagues (Bonneau, 2007a; Burrell, 1994, 2008). In fact, according to Hogan's (2007) analysis of spending in state legislative races, women actually outspend their male colleagues under certain conditions. Moreover, Frederick and Streb (2008b) establish that female judicial candidates are more likely to win IAC elections than their male colleagues. It is possible that this electoral edge could be linked to a spending advantage that women have amassed in these races. Therefore, we include a dummy variable coded 1 if the IAC candidate is female and 0 if the candidate is male (*Female*).⁸

Additionally, minority candidates have historically encountered difficulties in the fundraising process in campaigns for Congress (Wilhite and Thielmann, 1986) and state legislatures (Hogan and Thompson, 1998). However, a recent study of state supreme court elections did not uncover any significant racial disparities in this area (Bonneau, 2007a). To tease out any lingering discriminatory effects that may still exist in IAC elections, we include a variable indicating whether the candidate was a racial or ethnic minority (*Minority*).⁹

Institutional Arrangements. IAC elections unfold within a variety of institutional arrangements across states (Hall, 2008), which have implications for various outcomes in judicial elections. The most controversial is whether judicial elections should

⁸ Information on the sex of the candidate was collected from newspaper accounts and candidate Web sites.

⁹ This categorization includes candidates who were African-American, Asian-American, or Hispanic. Information on the race and ethnicity of candidates was collected from newspaper accounts and candidate Web sites. This coding scheme is consistent with earlier studies of judicial elections (Bonneau, 2007a; Hall, 2001).

occur with a candidate's partisanship listed on the ballot. Although there are intense normative feelings on either side of this debate, as it concerns IAC elections, there could be an empirical relationship between whether the state uses the partisan ballot and levels of spending. There are two main hypotheses concerning how this relationship might work. One perspective holds that in states with a partisan ballot spending might be higher, because the parties view these offices as more valuable and are willing to invest additional funds to help elect their candidates. Indeed, political parties are more active in fundraising for judicial candidates in partisan races than in nonpartisan contests (Streb, 2007). Partisan races also tend to be more competitive (Bonneau, 2007b; Dubois, 1980; Hall and Bonneau, 2006), which should drive up spending. Alternatively, some scholars have argued that the partisan ballot lessens the need for money (Bonneau and Hall, 2009). In partisan races, the partisan cue on the ballot provides low-cost information to voters. Therefore, candidates do not have to spend as much to get people to the polls. Because of the conflicting hypotheses, we include a variable based on whether the election is partisan, coded 1 and 0 otherwise (*Partisan*).

Most IAC elections take place in districts, while a smaller number are statewide (Streb and Frederick, 2009). This variable has been accounted for in earlier studies of campaign spending in judicial elections (Bonneau, 2005; Frederick and Streb, 2008a). In the data used for this study, 76 percent of candidates ran in district-based elections and 24 percent ran statewide. Because the constituencies of judges elected in districts are not as large as those elected statewide, we expect expenditures to be lower for candidates in district-based elections as opposed to those candidates who run statewide, all else equal. Besides being less populous, districts tend to contain less diverse, less competitive constituencies. They also present candidates with a different landscape for introducing themselves to voters. Candidates running statewide may feel they have to spend more to introduce themselves to voters than they would running in a district. The models, then, consist of a variable indicating whether the candidate ran in a district-based election, coded 1 and 0 otherwise (*District*).

The degree to which a state regulates the way campaigns are financed should influence how much candidates spend. States with more restrictive regulatory laws should suppress candidate spending. Witko (2005) has developed an index measuring the stringency of each state's campaign finance laws.¹⁰ Our models rely on this measure to estimate the impact of this variable (*Regulation*). We expect that candidates running in states with more restrictive laws ought to spend less, all else equal.

The perceived value of the IAC seat may also factor into how much candidates spend. If candidates and donors consider a seat to be more valuable, then spending may escalate as a result. Two variables that have proven relevant in this regard are the length of the IAC term and the level of compensation given to the judges who serve

¹⁰ Witko's measure is a twenty-two-item additive index indicating the number of campaign finance statutes each state has adopted. The values for this variable in our data set ranges from three to seventeen.

on the IAC bench. Bonneau (2005) finds that spending in supreme court races is greater in states that have longer terms, although Frederick and Streb (2008a) do not uncover a similar relationship in IAC elections. This variable is measured as the length of the IAC term the candidate is running for in number of years (*Term Length*).¹¹

The rate of pay for IAC judges may also stimulate candidates to spend additional sums of money. Frederick and Streb's (2008a) model of spending in IAC elections substantiates this relationship. We expect the same dynamic when the unit of analysis is the candidate as well. Consistent with Frederick and Streb's earlier study, our measure of salary is calculated by taking the IAC salary in the state and dividing it by the state's per capita income (*Salary*).¹²

The final institutional variable we believe will influence spending by IAC candidates is whether they run in a single-member or multimember district. Candidates seeking office in multimember districts typically have to contend with an environment where they are opposed by more than one viable candidate. In multimember districts, candidates for multiple seats run in the same contest (for instance, six candidates competing for three seats on the court). The likely response to this scenario is for candidates to boost their spending accordingly. Indeed, Frederick and Streb (2008a) uncover robust support for this proposition in their model of total spending in IAC races. Our model captures this effect with a dummy variable, coded 1 if the IAC candidate was running in a multimember race and 0 otherwise (*Multimember*).

Electoral Context. The final set of variables in the models estimate how the electoral context of the race influences IAC candidate spending. Perhaps most important is the degree of competition the candidate encounters in the race. Candidates in closer races should spend more, while candidates in races where the outcome is lopsided should spend less. Of course, there is some element of reciprocal causation as more competitive races will be shaped in part by higher spending. One solution to this problem would be to employ a simultaneous equations model, although the difficulty of constructing an instrumental variable is well documented in previous studies (see, for example, Jacobson, 1990). However, since our objective here is to predict spending rather than competition we follow the practice of other studies looking at campaign expenditures in judicial elections (e.g., Bonneau, 2005; Frederick and Streb, 2008a) by including the margin of victory for the winning candidate in the race (*Margin of Victory*).

Over the course of this study, the number of IAC seats up for election in a given year ranged from one to forty-eight. This variation could affect candidate expenditures. It is plausible that as the number of seats up for election in the state increase, donors will be forced to spread their contributions over a greater number of races, which will, in turn, lessen candidate expenditures (Bonneau, 2005). On the other

¹¹ Data on the length of the term for each IAC were collected from the American Judicature Society.

¹² State disposable income data were collected from the Bureau of Economic Analysis. Salary data were collected from the National Center for State Courts: http://www.ncsconline.org/D_KIS/Salary_Survey/Index.html.

hand, Streb and Frederick (2008) show the opposite effect in IAC elections when spending in the race is the unit of analysis. Candidates appear to respond to contending with more seats up for election by upping the amount of money they spend. With a more crowded field, candidates have to spend more to be noticed. Hence, our models include the total number of IAC seats up for election in the year the candidate was running (*Seats*).¹³

IAC elections take place in jurisdictions that vary dramatically in population. Larger constituencies tend to have more competitive elections (Abramowitz, 1988; Abramowitz and Segal, 1992; Hibbing and Brandes, 1983; Frederick, 2010), which increases the cost of campaigns (Hogan, 2000; Partin, 2002). Although the available evidence indicates that constituency size seems to be less significant in judicial campaigns (Bonneau, 2005; Frederick and Streb, 2008a), we include an estimate of the voting-age population in the state or district in which the election was held (*Voting-Age Population*). Since it is a component of the dependent variable, voting-age population is excluded as one of the independent variables in the model predicting per capita spending.

Finally, the level of candidate spending could also be sensitive to the cycle in which the election occurs. For instance, the descriptive statistics reported previously indicated that the 2004-05 election cycle saw a sharp uptick in expenditures. To control for any period effects, the models include a battery of dummy variables representing the various election periods included in the data set, with 2000-01 serving as the reference category.

Estimation Technique. For our estimation technique, given the continuous nature of the dependent variables, we employ ordinary least squares regression. Since many states are included multiple times in the data set, the assumption that the error terms are uncorrelated is violated. Consistent with other multistate comparative studies of judicial elections (e.g., Streb and Frederick, 2009; Hall, 2007) to correct for this serial correlation, robust standard errors clustering on the state are estimated for each model.

RESULTS

Table 2 presents the results of the models predicting campaign spending in IAC elections. The first column contains the parameter estimates for the total spending model, while the second column includes the results for the per capita spending model. As projected, a number of the candidate, institutional, and electoral-context variables are significant predictors of the amount of candidate expenditures in IAC elections.

Candidate Variables. In some cases, the candidate-specific variables confirm the descriptive data reported earlier; in others, they do not. Relative to elected incumbents, both quality and non-quality challengers, and quality and non-quality open-seat candidates, spend significantly less money. To get a better sense of these differences,

¹³ We also substituted the number of *contested* IAC seats up for election in the state for the year the candidate ran and uncovered substantively similar results to what we report in the results section.

Table 2
Models Predicting Individual Spending in IAC Elections, 2000-09

Independent Variable	Total Spending (log)	Per Capita Spending (log)
<i>Candidate Variables</i>		
Appointed Incumbent	-.010 (.216)	-.215 (.277)
Quality Challenger	-.622** (.203)	-.622** (.187)
Non-Quality Challenger	-1.132*** (.241)	-1.270*** (.272)
Quality Open-Seat Candidate	-.257* (.104)	-.371* (.157)
Non-Quality Open-Seat Candidate	-.593** (.173)	-.583** (.152)
Minority	-.014 (.137)	.141 (.134)
Female	-.104 (.173)	-.284 (.181)
<i>Institutional Variables</i>		
Partisan	-.696# (.330)	-.422 (.519)
District	-.627 (.417)	1.620*** (.374)
Regulation	-.072* (.030)	-.031 (.056)
Salary	.563*** (.146)	.596* (.233)
Term Length	.216* (.093)	.226 (.175)
Multimember	1.615*** (.352)	-.054 (.557)
<i>Electoral Context</i>		
Margin of Victory	-.051*** (.007)	-.041** (.013)
Seats	.013 (.009)	-.011 (.009)
Voting-Age Population	-.00013#	(.00006)
2002-03	.181 (.180)	.103 (.242)
2004-05	.703** (.206)	.716* (.285)
2006-07	.360 (.268)	.514 (.306)
2008-09	.746* (326)	.514 (.416)
Constant	9.387*** (1.450)	-.012 (2.220)
Adj. R2	.288	.252
N	470	470

#p < .10 *p < .05 **p < .01 ***p < .001

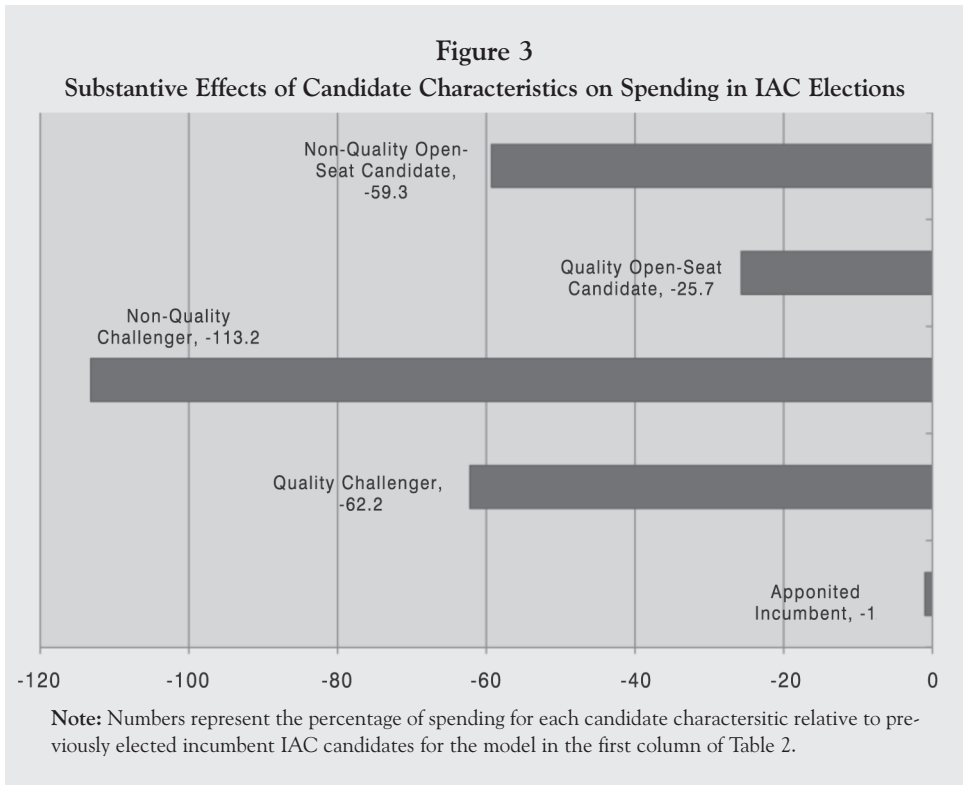


Figure 3 plots the percentage less each candidate type spends relative to elected incumbents, the reference category in this model. The biggest disparity exists for non-quality challengers who are outspent by about 113 percent compared to elected incumbents. It appears that judges, while perhaps not enjoying the prospect of raising money, still recognize the necessity to do so. However, unlike the results of the descriptive data, there is no statistically meaningful difference between appointed and elected incumbents after controlling for other variables. The gap between appointed and elected incumbents reported earlier appears to be attributable to other factors. Though appointed incumbents may not have an established set of donors on which to rely, this does not appear to hamper their ability to spend.

Unlike the descriptive results, in the multivariate models experienced challengers outspend inexperienced challengers and experienced open-seat challengers outspend inexperienced challengers. This result is consistent with those for other elected offices. However, the fact that quality challengers are able to outspend non-quality challengers does not translate into greater vote shares or an increased probability of victory (Streb and Frederick, 2009).

Regarding gender and minority status, neither of the coefficients for these variables are statistically significant, indicating that women and minority IAC candidates

are able to hold their own on this metric of campaign success.¹⁴ Yet the lack of statistical significance for the female variable indicates that a fundraising advantage for female judicial candidates is not the reason why they are more successful than male candidates (Frederick and Streb, 2008b).

The nature of the relationships described in this section holds when the dependent variable is operationalized on a per capita basis. The fact that these results are robust to more than one model specification illustrates the importance of the candidate-experience variables. The relationships we examine in the next section of results do not hold up in both models.

Institutional Variables. The evidence in Table 2 also reveals that institutional factors hold sway over how much money is spent in IAC elections, but this influence depends on whether spending is operationalized on a per capita basis. Most relevant for the debate over judicial selection reform is that candidates in partisan races spend about 70 percent less than candidates in nonpartisan races. However, the coefficient for this variable just misses the .05 threshold for statistical significance ($p < .051$). This result suggests that other variables, not whether the election is partisan in and of itself, seem to be driving the differences in the descriptive stats mentioned earlier.¹⁵ It corroborates Bonneau and Hall's (2009) multivariate analysis of state supreme court elections indicating that partisan races are less expensive when other variables are taken into account. When the impact of the partisan ballot on per capita spending is examined, the relationship does not hold. This result may be, in part, a function of the tendency for partisan IAC races to take place in more populous jurisdictions such as districts in Texas and Illinois and statewide in Alabama and Pennsylvania.¹⁶ While it is premature to declare partisan elections can bring down spending in IAC elections, they do not seem to be driving it upward in IAC races, either.

Consistent with a previous study of campaign spending in IAC elections (Streb and Frederick, 2008), candidates in races where more than one seat is at stake spend about 160 percent more than candidates vying for a single seat ($p < .001$). However, when spending is accounted for on a per capita basis this relationship does not hold. These dissonant findings are likely explained by the fact that many multimember races are concentrated heavily in Pennsylvania, one of the most populous states in the United States.¹⁷

The impact of campaign finance regulation is also contingent upon how spending is measured. As regulation increases, total spending decreases ($p < .05$). However,

¹⁴ We also tested a model with separate dummy variables for African-American and Hispanic candidates, and it produced substantively similar results.

¹⁵ Outliers in the descriptive data could also explain this discrepancy. Since our dependent variable is transformed to the log of candidate spending, the impact of high-spending candidates in partisan races may not be as influential in the multivariate results.

¹⁶ The mean constituency size for candidates running in partisan races was approximately 900,000 citizens higher than candidates running in nonpartisan races ($p < .001$).

¹⁷ From 2000 to 2009, thirty-six out of eighty-four (43 percent) IAC candidates running in multimember races ran statewide in Pennsylvania.

regulatory stringency has no significant effect on per capita spending. These results offer minimal support for the proposition that regulation alone can successfully curb campaign expenditures in IAC elections. If candidates need to spend additional sums of money to reach more voters, in many cases they can navigate around many regulatory hurdles to do so.

The variables measuring the attractiveness of an IAC seat have a positive effect on candidate spending. The salary variable is significant at the .05 level in both models, while the term-length variable is significant in the total spending model. As an IAC seat's value increases, candidates increase their spending accordingly.

Electoral Context. Of the electoral context variables in the models, margin of victory has the most substantial impact on spending. As expected, when candidates are confronted with a more competitive electoral climate spending is driven upward. Controlling for the other variables in the model, for every 1 percent increase in the margin of victory in the race, a candidate's total spending declines 5.1 percent ($p < .001$). The corresponding decline for per capita spending is 4.1 percent ($p < .01$). This finding supports Bonneau's (2005) model of spending in state supreme court races and Frederick and Streb's (2008) model of spending in IAC races.

None of the remaining electoral variables offer much explanatory leverage in understanding candidate spending, with the exception of the variable for the 2004-05 cycle. During this period expenditures were significantly higher, but none of the other temporal variables indicate much support for period effects in determining how much money candidates spend in IAC elections. Finally, neither the number of seats up for election nor the voting-age population were significant at better than the .05 level.

CONCLUSION

Our objective was to undertake a comprehensive, systematic examination of spending by candidates in lower-level judicial offices. The lion's share of the research on the role of money in campaigns focuses on supreme court elections. Although supreme courts may be perceived as being more prestigious and consequential than lower-level courts, the fact is that most judicial elections do not take place at the supreme court level. By collecting and analyzing a decade's worth of spending by candidates in IAC elections, we now have a firmer grasp of what patterns of spending look like outside of the state supreme court context.

Several major conclusions can be drawn about candidate spending in IAC elections. First, the overall spending levels are lower than state supreme court levels. The average candidate in IAC elections spends far less than candidates in supreme court contests. While there might be a few outliers approaching or exceeding a million dollars, the average IAC candidate is spending less than \$200,000. From the perspective of critical observers of judicial elections, this level of spending should serve as some comfort that expenditures are not spiraling out of control, especially in light of the fact that there is no linear upward trend in spending over this period once inflation is taken

into consideration. However, advocates of judicial elections may see this level of spending as problematic, because it will be more difficult for candidates to get their message out to the public. Whatever one's position on the role of money in judicial elections, this kind of data is valuable in gaining insight into what exactly the state of finances are in IAC contests.

Besides a broad overview of spending in IAC elections, this study has also illustrated what factors drive and constrain spending. From an institutional standpoint it confirms that such factors as judicial compensation, state campaign finance regulation, whether elections are partisan or nonpartisan, and whether candidates are running in districts or statewide will influence total spending. However, such factors are contingent upon how spending is operationalized, with most of these variables retaining less importance when spending is examined on a per capita basis. Debates over the role of money must consider these conflicting results based on different measures of campaign spending.

Most important, this study shows that certain individual characteristics play a substantial role in explaining why some candidates spend more or less than others seeking the IAC bench. Most noteworthy among them is that appointed incumbents are not spending less than elected incumbents after appropriate controls are included in the model. Although these elections featuring new appointees may seem to be less costly when the race is the unit of analysis (Frederick and Streb, 2008a), it is not necessarily so at the individual level. Despite being in a more electorally vulnerable position overall (Hall and Bonneau, 2006; Streb and Frederick, 2009), appointed incumbents can hold their own relative to their more established counterparts when it comes to expenditures.

Where experience does matter strongly is for candidates who are not incumbent officeholders. Relative to incumbents, open-seat candidates and challengers spend less money. However, the financial disparity can be offset when these candidates have previous experience. The decisive role that candidate characteristics such as experience play in judicial elections may limit the impact of laws restricting campaign spending that focus on institutional variables exclusively.

Additionally, the results indicate that female and minority IAC candidates are not at a disadvantage in terms of campaign spending. While some scholars have argued against judicial elections because they can limit diversity on the bench (Henry et al., 1985; Bratton and Spill, 2002), an inability for female or racial or ethnic candidates to spend as much as their male or Caucasian counterparts would not be an explanation for this lack of diversity.¹⁸

This study is far from the last word on campaign finance in judicial elections. Much work remains to be done to get the most accurate picture of what influences candidate spending. What we have accomplished here is a preliminary examination of

¹⁸ Of course, Frederick and Streb (2008b) find evidence that judicial elections in general do not keep females from obtaining the bench.

what is happening in the less visible context of running for the IAC bench. Observers of judicial elections should continuously monitor what is going at the IAC level and determine whether the trends documented here continue. Future avenues of research could attempt to replicate this analysis at the trial court level. Acquiring better data on who is contributing to candidates at the IAC level would also be a fruitful line of research. As of now, this study shows that candidate spending is not a random process and is predicted by a set of systematic factors, which can serve as springboard for research moving forward. **jsj**

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