The Evolution of State Courts Research in the 21st Century

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Abstract

This review essay documents research on state courts throughout the last twenty-five years, tracking many of the important changes affecting state courts. Since *State Politics & Policy Quarterly* first started in 2001, research on state courts has evaluated a diverse range of topics including traditionally important areas like the decisions of state judges, the effectiveness of elections for promoting accountability, public attitudes towards state courts, and judicial diversity, among other lines of study. In this essay, we describe the continued development of state courts research—noting further refinement to our understanding of state courts and the development of exciting research avenues. We first present an overview of state courts research and then discuss scholarly efforts to explain the emergence of new-style judicial campaigns, as well as the defense of judicial elections that formed within the subdiscipline. From there, we describe the current state of the state courts research and address research areas in need of attention. We note the important contributions of *State Politics & Policy Quarterly* to the advancement of the state courts subfield, which has published more than 50 law and courts articles since its founding. By capitalizing on the methodological and substantive advantages that come from comparative inquiry, scholars have successfully addressed many important questions and challenges involving state courts.

Introduction

Perhaps the fastest growing and evolving subfield since the establishment of *State Politics and Policy Quarterly* (*SPPQ*) in 2001 has been that of state courts. At the journal's founding, the law and courts literature was only just beginning to adopt rational choice theory and institutionalism in widespread applications. This paradigm shift marked a break with earlier scholarly emphases on attitudinalism (Segal and Spaeth 2002) in favor of theories stressing utility maximization. This emergent "strategic model" emphasized the constraining role institutions such as the system of checks and balances, voting rules, or social norms have upon judicial behavior (e.g., Epstein and Knight 1998; Maltzman, Spriggs, and Wahlbeck 2000).

At about the same time, the state courts subfield was beginning to address the emergence of the so-called new-style judicial campaign—characterized, as it was, by loud, expensive, and churlish elections that cost the odd incumbent their judicial seat. Scholars reacting to this trend were badly fractured over a debate regarding the normative value of judicial elections. From the parallel developments of institutionalism and new-style judicial campaigns, a convergence occurred that transformed state courts research during the twenty-first century.

In the last field essay on state courts research, Paul Brace, Melinda Gann Hall, and Laura Langer (2001) encouraged scholars to leverage the institutional differences found throughout state courts, as well as varying state environments, to study courts comparatively. This, along with the formation of *SPPQ,* helped state courts scholars embark on a diverse range of topics including traditionally important areas like the behavioral decisions of state judges, the effectiveness of elections for promoting judicial accountability, public attitudes towards state courts, political efforts to curb the power of courts, and judicial diversity, which we will review in this essay.

Below, we first present a broad overview of the origins of state courts research, including the contributions of neo-institutionalist scholars at the turn of the century and theoretical advancements in the subfield. We then discuss efforts to explain the emergence of new-style judicial campaigns, including a focus on the attributes that drive voter turnout and causal forces associated with vote choice, as well as the defense of judicial elections that emerged in the early 2000s. From there, we address the current state of the subfield, including notable recent contributions published in *SPPQ*. We conclude by identifying areas of state courts research that remain in need of attention.

Foundations in State Courts Research

Early public law research into state courts emerged in the late 1970s and 1980s. Philip Dubois' (1979) pioneering studies examined increased electoral competition and citizen awareness of judicial elections. Kermit Hall's research explored the changing political tone of judicial elections (K. Hall 1984), along with their histories (K. Hall 1983).[1] Henry Glick's (1991) wide-ranging state courts research studied state supreme court policy making, patterns of judicial dissent (Glick and Pruet 1986), and the connection between judicial selection systems and the characteristics of judges (Glick and Emmert 1987). Additional research by G. Alan Tarr, Charles Sheldon, Larry Baum, and many others, contributed to an improved understanding of state court decisions and controversies surrounding the selection of state judges.

The state courts subfield made significant strides with the contributions of Paul Brace and Melinda Gann Hall, beginning in the late 1980s and 1990s. Their attention to the operation of state supreme courts and the political processes that structured the decisions of courts and judges moved the focus of state courts beyond how state courts developed historically. Brace and M.G. Hall's

[1] Three scholars discussed herein have the surname "Hall". To avoid confusion, we refer to Kermit Hall as "K. Hall", Matthew E.K. Hall as "M.E.K. Hall", and Melinda Gann Hall as "M.G. Hall".

scholarship energized research on state courts by utilizing the nuances of cross-state variation to study state courts comparatively (Brace and M.G. Hall 1995). Using death penalty cases with heightened political saliency and mandatory review of capital cases by most state supreme courts, Brace and M.G. Hall exploited the unique state contextual and institutional environments to evaluate judicial decision-making among the state high courts.

Brace and M.G. Hall initially applied the cross-section variation in state court designs and state political environments to evaluate court-level patterns of dissent (Brace and M.G. Hall 1990) and evolved to consider judge-level explanations of dissent (Brace and M.G. Hall 1993; M.G. Hall 1987). Their collaborative (Brace and M.G. Hall 1997) and separate attention (Brace and Boyea 2008; M.G. Hall 1987, 2014) to the conditions that lead individual judges to affirm or reverse lower court decisions produced sophisticated models of judicial behavior. Beyond their research publications, Brace and Hall contributed to the state courts subfield with their collection of case and judge-level data for all 52 state supreme courts between 1995 and 1998 (Brace and Butler 2001). Their State Supreme Court Data Project, which was funded by the National Science Foundation, remains the most extensive collection of state supreme court decisions available to state courts scholars.

Leading into the 2000s, Melinda Gann Hall's individual and collaborative research with Chris Bonneau further advanced the subfield towards a refined and widely accepted understanding about how state supreme court elections operate. M.G. Hall's research on electoral competition and voter participation in judicial elections confronted long-standing criticisms about how judicial elections operate. Her examination of competition in judicial elections (M.G. Hall 2001a), including patterns of contestation, incumbent vote share, and incumbent defeat across different methods of judicial elections confirmed an important, ongoing change among judicial elections.

M.G. Hall's focus on judicial elections and electoral accountability evolved over the next decade (Bonneau and M.G. Hall 2009; M.G. Hall 2007, 2014, 2015; M.G. Hall and Bonneau 2006, 2013), creating the foundation for contemporary state courts research on judicial elections.

After the creation of *SPPQ*, which perhaps not coincidentally aligned with Brace and M.G. Hall's productive research agenda, a scholarly emphasis developed to connect the causal position of institutions on political choices in state courts research. Scholars active around this time witnessed the emergence of neo-institutionalist theory and were influenced by emerging applications. Theories of the conditioning effect of political institutions seeped in judicial politics, including attempts to understand how leadership styles shaped consensus in the U.S. Supreme Court (Maltzman, Spriggs, and Wahlbeck 2000). The emphasis of institutional context and the conditioning effects of institutions likewise developed into an influential perspective for understanding the choices of state courts, as well as how the careers of judges were affected by the decisions of voters in down-ballot judicial elections.

New-Style Campaigns and the Entrenchment of State Courts Research

As law and courts scholars were embracing rational choice and neo-institutional paradigms, a concomitant phenomenon arose to help fuel scholarly interest in state courts—the emergence of the so-called "new-style" state supreme court campaign (Hojnacki and Baum 1992). Up until the late 1980s and 1990s, state judicial elections had typically been sleepy affairs. During this period, however, candidates, parties, and special interests began raising and spending significant sums of money as part of their campaigns. According to data compiled by Kritzer (2015, p. 137), in 1990, candidates for state supreme courts spent approximately $10 million. In 2000, that figure reached nearly $60 million (a roughly 500 percent increase). New-style campaign messages for judicial office often took on policy-based, and even churlish tones, as attack advertising became more

commonplace, along with an emphasis on "tough on crime" themes (Schotland 1998). This trend towards openly politicized judicial campaigns was amplified by the US Supreme Court in *Republican Party of Minnesota v. White*[2] in 2002 when the nation's high court invalidated state bans on judicial candidates from taking positions on political issues.

The emergence of the new-style campaign attracted its fair share of critics. For those in the field of law, elections amplified concerns about the administration of justice and, specifically, campaign fundraising (Geyh 2003; Schotland 1985), spending by special interests (Jamieson and Hennessy 2007), the ability of voters to make informed decisions (Geyh 2003), and whether elections diminished public confidence in state court systems (Geyh 2003). While judicial elections were used early in the republic's history, adoption of partisan elections intensified during the mid-nineteenth century (Tarr 2012).[3] While the shift to judicial elections sought to make judges accountable to the public rather than to elected elites (Kritzer 2020; Tarr 2012), tension developed over whether judges should be judicially independent or accountable.

Among critics, a common refrain was that judicial elections did not achieve political accountability, yet they did politicize state judiciaries—an assessment that prompted some to consider "why judicial elections stink" (Geyh 2003). Critics applied anecdotal evidence to describe voters as insufficiently informed to make reasoned choices about candidates due to their "ignorance, apathy, and incapacity" (Geyh 2003, p. 63). Moreover, deteriorating electoral environments marked by increasingly competitive elections were thought to politicize state courts (Geyh 2003; Sheldon 1988).

For critics concerned about the harmful effects of judicial elections, these campaigns challenged legal community norms that encouraged judicial independence and impartiality (Geyh

[2] 536 U.S. 765 (2002)
[3] Vermont first experimented with judicial elections in 1777 (prior to becoming a state) (Kritzer 2020).

2016). Alternatively, the democratic values of elections emphasized representation and accountability to the public, likely leading to judges who share political and policy preferences of their constituents. As such, a long impasse has existed between those that favor independent judges and those that favor judges politically accountable to their constituents (Tarr 2012).

Despite critiques of the new-style campaign, judicial elections had their defenders too. M.G. Hall (2001a) evaluated the concerns of court reformers over partisan judicial elections and found that reformers often underestimated partisan characteristics inherent in nonpartisan elections and overestimated nonpartisan aspects in partisan elections. M.G. Hall's results show that incumbents in retention and nonpartisan elections are not insulated from state-level contexts, such as competitive party politics, competition unique to individual races, and murder rates, resulting in fewer affirmative votes for the incumbents. Furthermore, M.G. Hall found that there is a substantive component to how voters decide in partisan elections. For example, the presence of a partisan challenger, ideological incongruity, and higher murder rates lowers incumbent vote-shares. By showing how institutional designs influence incumbent vote-shares, M.G. Hall demonstrated that making judicial elections nonpartisan does not eradicate partisan concerns.

With the controversy over new-style campaigns, political scientists invested significant resources to the study of state courts. An examination of the written record underscores the dramatic evolution of American state courts scholarship that occurred in tandem with the onset of new-style campaigns. In Figure 1, we provide a graphical depiction of the volume of scholarship related to state courts.[4] Each plot in Figure 1 represents the annual number of journal articles in a

[4] To produce this graphic, we performed a search for the number of research articles making references to state courts or judicial elections. Specifically, we searched Google Scholar for the number of journal articles from a given journal and year that included any of the following: "State Court" OR "State Judge" OR "State Judiciary" OR "State Appellate Court" OR "State Trial Court" OR "State High Court" OR "State Court of Last Resort" OR "State Supreme Court" OR "Judicial Election" OR "State Intermediate Court" OR "State Court of Appeals." We sampled articles from six peer-reviewed journals between 1990 and 2024: *The Journal of Politics, State Politics & Policy*

given publication that included our key terms, and we include a rolling average of the sum total across each of the six journals of interest. According to the estimates in Figure 1, between 1990 and 1999, there was an annual total average of 18.3 published journal articles in our sample discussing state courts. But between 2000 and 2009, there was an average annual number of 32.7—an impressive 78.7 percent increase.

[Figure 1 about Here]

By 2007, the American state courts subdiscipline reached an important milestone—the publication of its first major edited volume of state courts research (Streb 2007). Contributors included political scientists and legal scholars alike, and entries touched on themes such as the history of judicial elections and the role of political intermediaries in state courts. The text reflected the ambivalence scholars held at this point with respect to judicial elections, especially the new-style campaign. For example, Schaffner and Diascro (2007) argued that the informational environment surrounding state supreme court elections is insufficient to justify the goal of accountability in judicial elections. In contradistinction, various studies have shown that voters have opportunities to infer critical information of judicial candidates through partisanship (Bonneau and Cann 2015; Kritzer 2015), policy preferences (Bonneau and Cann 2015), appointing governor (Squire and Smith 1988), special interest involvement (Hughes 2019), attack advertising (M.G. Hall and Bonneau 2013; M.G. Hall 2015; Hughes 2019), comparing the incumbent against the challenger (M.G. Hall and Bonneau 2006), media coverage (Hughes 2020), and endorsements (Shieh et al. 2025).

Quarterly, the Journal of Law and Courts, Political Research Quarterly, Justice System Journal, and *Judicature.* Note that *SPPQ* began publication in 2001 and the *Journal of Law and Courts* began publication in 2013.

In Defense of Judicial Elections

Gradually, a consensus emerged amongst political scientists surrounding the nature of judicial elections. As Brandenburg and Caufield (2009, p. 80) note, studies before 2000 reflect a "bygone era." The new paradigm coordinated a defense of judicial elections. State courts scholars countered those in the legal profession by applying new empirical tests of judicial elections data. Melinda Gann Hall and Chris Bonneau were especially important contributors to this debate. M.G. Hall's (2001a) research found voters in state supreme court elections kept judges accountable through increasingly competitive elections. Judicial races from 1980 through the mid-1990s were increasingly contested, competitive, and subject to incumbent defeat—developments that were illustrated most strongly in states with partisan information on their ballots.

Challenging Critics of Judicial Elections

For all the concerns courts-reformers have identified with respect to judicial elections and accountability, surprisingly few of their concerns have been borne out by the scientific literature (Gibson 2008).[5] For example, some critics allege that popular selection methods for judges tend to result in a predominantly white and male bench (e.g., Henry et al. 1985). The lion's share of political science research investigating this assertion, however, lends it little support. Hurwitz and Lanier (2003), for example, found evidence from 1985 that popular election methods were associated with a lack of diversity on state appellate courts, but they also found that these very methods were associated with *greater* diversity amongst state courts of last resort in 1999. In a reanalysis thirteen years later, the authors again concluded that popular judicial election methods did not disadvantage racial or gender minorities in trial or appellate court selection events

[5] The courts-reformers represent various interests, but they primarily find their support from individuals in the legal academy, professional organizations, advocacy groups, or jurists themselves. For a review of the controversy between critics and advocates of judicial elections, see Bonneau and M.G. Hall (2009, Chapter 1).

(Hurwitz and Lanier 2016). While the question of judicial institutions and diversity has drawn substantial interest, Goelzhauser (2011, p. 765) perhaps best sums up the literature: "The results are mixed, but much of this work finds little if any relationship between selection institutions and diversity."

Critics of judicial elections also allege that voters lack the requisite knowledge or interest to produce a qualified bench. For example, Geyh (2003, p. 55) argues, "Widespread voter ignorance and apathy…undercut the likelihood that judges will be held accountable to the public in any meaningful way." M.G. Hall's research challenged existing notions of voter ineptitude, including the ability to assess candidates' features. M.G. Hall, Bonneau, and their co-authors observed that voters evaluate a candidate's professional experience, pathway to the court, and history of electoral success. Challengers with lower court experience perform better against incumbents than those without experience (Bonneau and Cann 2011; M.G. Hall and Bonneau 2006, 2013; M.G. Hall 2015); untested incumbents selected by interim appointments are disadvantaged compared to elected incumbents (Bonneau and M.G. Hall 2009; M.G. Hall 2015); and an incumbent's record of strong victories enhance their performance in later elections (M.G. Hall 2015). Others note that while elected state supreme court judges are less likely to have attended an elite law school or served on the editorial board of a law review compared to appointed judges, they are no less likely to have attended a locally prestigious law school or served as a lower court judge (Goelzhauser 2016). Indeed, elected judges are more likely to have held some major office prior to their judgeships compared to judges selected via merit selection processes (Goelzhauser 2016).

Evolving Judicial Elections: Understanding the Effects of Electoral Design, Campaign Money, and Attack Advertisements

Adding to the complexity of judicial elections, M.G. Hall and Bonneau highlighted how election outcomes and voter participation are conditioned by institutions that structure the performance of

judicial elections. Among their central findings is the effect of partisan elections on incumbent success (M.G. Hall 2001a, 2015; Frederick and Streb 2008) and voter participation (M.G. Hall 2007; M.G. Hall and Bonneau 2013). Such findings confirm the longstanding speculation that voters in judicial elections rely upon a candidate's party affiliation on the ballot to structure their voting behavior in a consistent manner (Dubois 1979). Other scholars have confirmed that voters are substantially influenced by partisan affiliation when they vote (Bonneau and Cann 2015) and that partisan labels on ballots decrease roll-off (Kritzer 2016). Research also underscores the importance of alternative election designs. For example, state rules that allow statewide or local constituencies are frequently connected to incumbent performance (Bonneau and Cann 2011) and voter participation (M.G. Hall 2007).

M.G. Hall and Bonneau also tied voter responsiveness to the level of campaign spending and campaign advertising in a judicial campaign (Bonneau and M.G. Hall 2009; M.G. Hall 2015). They noted that where spending differences favor the incumbent, incumbent judges perform better, but challengers may reduce the incumbency advantage by outspending incumbents (Bonneau 2005b; M.G. Hall 2015). Most notably, for every 1 percent increase a challenger spends on his or her campaign, support for the incumbent decreases by 1.8 percent (Bonneau 2007). It is also well-documented that judicial campaign spending (Bonneau 2005a) and fundraising (Boyea 2017) are tied to the characteristics of elections, institutional arrangements, and political environments.

Addressing the increased politization of judicial campaigns, elections research demonstrates that judicial campaign advertisements, including attack advertisements, are no longer rare events with nonpartisan elections more likely than partisan races to produce attack advertisements (M.G. Hall 2015). Advertising from the candidates themselves and interest groups has become more prevalent in recent years, especially in states with contentious and nonpartisan

elections, where attacks against a candidate can be used as a vessel to infer information on the race more broadly (M.G. Hall 2015; Hughes 2019). Research confirms that attack advertisements diminish support for incumbents (M.G. Hall 2015) and increase participation by voters (M.G. Hall 2015; M.G. Hall and Bonneau 2013)—yet with noticeably strong effects in nonpartisan races.

Judicial Legitimacy

Another common critique of judicial elections has been that judicial electioneering undermines judicial legitimacy, or broad public support for courts, by portraying judges as little different from run-of-the-mill politicians in the eyes of the public. Barnhizer (2001, p. 371) offers a characteristic example of this perspective:

> Judges are the last defense of the Rule of Law's integrity. When judicial decisions are seen as politicized rather than independent, or as done in the service of a special interest group or to advance judges' self-interest rather than in a neutral and independent spirit, the sense of fairness and justice that is the binding force of the Rule of Law becomes exhausted and the system is weakened.

In a pathbreaking series of work that leveraged randomized experiments to understand the causal link between political institutions and judicial legitimacy, James Gibson evaluated whether judicial elections erode legitimacy (Gibson 2008, 2012). His results turned the conventional wisdom on its head—judicial elections, rather than diminishing, tend to *enhance* legitimacy, "by reminding citizens that their courts are accountable to their constituencies, the people" (Gibson 2012, p. 130).

Campaign activities help to establish democratic linkages with voters, and while campaign contributions from potential parties to future cases can undermine legitimacy (Gibson 2008), policy pronouncements and even attack advertisements typically do not (Gibson 2012).[6]

[6] Research has called into question some of Gibson's findings. Nownes and Glennon (2016) use experimental methods to argue that elections themselves do not contribute to judicial legitimacy—rather, appointments undermine legitimacy. Woodson (2025) finds that judicial elections enhance legitimacy in that they make courts representative bodies—but this is not the same kind of legitimacy that builds acceptance for adverse judicial outcomes. Cann and Yates (2016) found contestable elections are the most preferred method for selecting judges, though citizens typically view their state's selection system as legitimate.

Additionally, Gibson (2008) finds that policy pronouncements have no effect on the legitimacy of courts and judges. When looking at state high courts in a post-*Dobbs v. Jackson Women's Health Organization*[7] context relating to reproductive rights, Gibson and Nelson (2025) find that salient abortion rulings like the *Dobbs* decision diminish specific support (i.e., performance satisfaction), but do not affect diffuse support (i.e., institutional loyalty).

Representation by Elected and Non-Elected Judges

Perhaps the most important critique of judicial elections has been that they undermine judicial independence. Judges who wish to maintain their positions might be tempted to make decisions with an eye toward reelection rather than to rule strictly on the facts of the case and relevant law. Indeed, one of the primary justifications for judicial independence is that courts can have a thermostatic effect on popular prejudices and provide relief to vulnerable minorities (Hamilton 2003). An extensive body of political science research finds that electoral vulnerability leads to more popular decision-making, especially in salient policy areas such as death penalty cases (e.g., Brace and Boyea 2008; M.G. Hall 1987).

Recent scholarship, however, has called into question just how distinct judicial elections are when it comes to promoting pandering behavior. After all, not every type of judicial election is created equal—some feature partisan labels; some are nonpartisan; and some do not even allow challengers. Consequently, recent works have found that nonpartisan and retention elections can encourage pandering behavior comparable to or exceeding partisan ones because judges must demonstrate their partisanship to voters through their actions and not via the ballot (Caldarone, Canes-Wrone, and Clark 2009; Canes-Wrone, Clark, and Kelly 2014).

[7] 597 U.S. 215 (2022)

What is more, simply because a judgeship is not accountable to the electorate does not mean that she is unaccountable. States like New Jersey, for example, which utilize appointment methods of selection, require supreme court justices to win *reappointment* by the governor. Others like South Carolina require justices to win reappointment by the legislature. Theoretically, it should be significantly easier for a judge to face retribution for an unpopular decision when her retention is up to one politician (or even a handful of them). Indeed, Shepherd (2009) finds that judges facing reappointment vote just as—if not more—strategically compared to their colleagues who are accountable to the electorate.

Not only might elected judges be tempted to make decisions considering popular preferences, but, perhaps even more worryingly, they might be tempted to make decisions with respect to the preferences of campaign donors. The empirical record on this point is mixed, however, and drawing causal linkages is difficult.[8] For example, Cann (2007) and McCall (2008) find evidence for a "dollars-for-votes" relationship in a handful of states but an absence in others. One of the more rigorous studies in this area that attempts to deal with the issue of endogeneity finds mixed results, uncovering a relationship between votes and contributions in one state but no such relationship in two others (Cann, Bonneau, and Boyea 2012).

As money becomes more of a major factor in judicial elections, voters may fear that judges may become less independent and more indebted to their donors. This could make voters look for judicial candidates who opt for public financing if the option is available. States are responsible for public financing programs for judicial elections. Hazelton, Montgomery, and Nyhan (2016), for example, examine North Carolina's public financing option, which judicial candidates could

[8] Cann, Bonneau, and Boyea (2012, p. 39) summarize the causal issue at play: "While it is possible that the campaign contributions cause judges to support their benefactors' preferred positions, it is equally plausible that donors simply give to judges who are already ideologically disposed to rule in the contributor's favor."

opt into from 2004 to 2013, and find that judges who participated in the program were less likely to vote favorably toward attorney donors. Furthermore, Bjornlund and Mark (2023) find that publicly financed elections are more legitimate than privately financed ones. Voters who are concerned about the corrupting effects of money in judicial elections and live in states where public financing is an option for judicial campaigns could direct their support to judicial candidates who participate in public financing programs.

The contributions by M.G. Hall, Bonneau, and other scholars connected to the operation of judicial elections and their effects on public attitudes illustrate the success of rigorous studies that apply comparative data. While debate lingers over whether it is normatively good or bad that judicial elections have changed and are now more politicized, M.G. Hall and Bonneau's early defense of judicial elections successfully challenged prevailing negative assumptions about electoral competition and voter performance in judicial elections.

Other State Courts Applications

While the state courts literature was fiercely debating the issue of judicial elections, another strain of research emerged that leveraged state courts' unique institutional contexts to test and expand upon hypotheses largely developed to explain the federal courts and their judges. Federal courts scholars, for example, have identified numerous reasons for why judges leave the bench, and judicial scholars have only begun to scratch the surface on the state level. Unlike federal judgeships, many state court seats are bound by term lengths, requiring judges to decide whether to run for reelection or retire. Scholars find that elected judges are more likely to retire voluntarily due to factors tied to state institutional design, level of competition, age, and eligibility for a pension.

Two central articles have addressed how institutional design influences voluntary retirement. M.G. Hall (2001b) focused on elective systems and found that there are strategic incentives for retirement in states with partisan and retention elections, though not in nonpartisan elective states. Curry and Hurwitz (2016) evaluated both elective and appointive systems and found that justices across selection systems engage in strategic retirement behavior. While elected judges are more likely to retire when electorally vulnerable, appointed justices consider the ideology of the sitting governor to ensure their ideological preferences continue on the court after they retire.

Subsequently, Hughes (2021) finds that both elected and appointive judges retire based on their eligibility for receiving a pension. Appointed judges stay on the bench to maximize their retirement benefits, while elected judges do not. However, accounting for retirement benefits diminishes the effect of ideological reasons or competition on retirement decisions (Hughes 2021). State court scholars have yet to fully comprehend a state judges' decision to retire rather than request senior status—an area ripe for further research as there are three states (Iowa, Pennsylvania, and Virginia) that provide for senior status.

Following the opinion assignment research in the federal courts literature (Maltzman, Spriggs, and Wahlbeck 2000), judicial scholars have evaluated how opinion assignments operate at the state level. To account for the variation in court administration in all 50 states, McConkie (1976) contacted chief justices, sitting justices, administrative assistants to chief justices in the 1976 term to understand the rules and norms in each of the state courts of last resort, an information gathering method that was followed by subsequent scholars (M.G. Hall 1990; Hughes, Wilhelm, and Vining 2015). Scholars observe that courts generally assign opinions randomly or in a rotating manner to ensure that justices get to write numerous opinions but update these procedures over time (M.G. Hall 1990; Hughes, Wilhelm, and Vining 2015).

In recent years, the chief justice role has evolved into elevated administrators who advocate for the needs of the entire state judiciary (Vining and Wilhelm 2023). Chief justices are now successful advocates for their state courts when they, or the court median, are ideologically similar to their state legislatures (Wilhelm et al. 2020; Vining and Wilhelm 2023). State legislatures are thus more receptive to the chief justice's administrative and funding requests when their policy goals align. Throughout the states, chief justices are selected for their posts through a variety of methods, including gubernatorial appointments, popular elections, rotation, promotion of the most senior judge, and peer vote. Several patterns have emerged relating to the attributes of chief justices. Where chief justices are appointed or elected, they tend to be more conservative; however, where selected by their peers, chief justices are more likely to be women or minorities (Goelzhauser 2016; Vining and Wilhelm 2023).

Inter-institutional dynamics have long been a standard in studies of the federal courts (Clark 2009) but have not received the same scholarly attention in the state context. Existing research, however, shows little indication that elective courts are institutionally weaker than appointive courts. For example, Leonard (2016) finds no evidence that state legislatures engage in greater court-curbing efforts for elective versus appointive courts. Court curbing in state legislatures is often politically motivated rather than influenced by judicial selection methods. Likewise, Leonard (2022) finds no evidence that elective courts are any more or less cowed by court-curbing efforts than appointive ones. Langer and Wilhelm (2008) find that state lawmakers typically believe elected state supreme courts to be more combative and retaliatory compared to appointive systems—hardly the mark of a judiciary deprived of its independence.

The State of the State Courts Literature

As we consider the current and future state of the state courts subfield, we must first discuss the importance of *SPPQ* as a primary venue for state courts research and, second, identify the direction of recent and ongoing research. With the formation of *SPPQ* in 2001, state courts scholars were fortunate to have a journal amenable to questions about state courts and the themes outlined throughout this article. That central space for state courts research in *SPPQ* was made only more important with changes among journals in the law and courts subfield. Beginning with the altered focus of *Judicature* after 2014 and followed by the closure of *The Justice System Journal* in 2022, scholars engaged in state courts research had fewer places to publish their research. Both journals prior had served as important venues for state courts research (see Figure 1), and without *Judicature* and *The Justice System Journal*, *SPPQ* became an obvious home for state courts research. As such, significant growth in the number of recent state court articles is observed in Figure 2, which identifies state courts articles in *SPPQ* from 2001 to 2025.[10]

[Figure 2 about Here]

Noting the increasingly important role for *SPPQ* as a venue for state courts research, 30 percent of the state courts articles in *SPPQ* have been published since 2020. Such a rapid development during the most recent five-year period suggests a progression for *SPPQ* as a primary outlet for state courts research. Moreover, law and courts articles in *SPPQ* since 2020 have dealt with essential topics related to our discussion. Recent topics have connected to studies of state court legitimacy (Barwick and Dawkins 2020), policy diffusion by state supreme courts (Matthews 2024), how judges use social media (Curry et al. 2024), and a growing literature on

[10] *SPPQ* articles from 2025 include only the first three issues.

state chief justices (Fife, Goelzhauser, and Loertscher 2021; Wilhelm et al. 2020; Wilhelm, Vining, and Hughes 2023).

Considering the full range of articles in *SPPQ* since its creation, *SPPQ* has published 54 articles connected to law and courts research. Those articles have evaluated decisional and litigation attributes, including *amici* activity before state supreme courts (Kane 2017), decision-making in state supreme courts (Cann 2007; Gray 2017), judicial review in state supreme courts (Crabtree and Nelson 2019), and judicial deference to administrative agencies (Johnson 2014). Articles have also covered topics connected to judicial elections and selection, including studies of electoral competition (Hughes 2019; Peters 2009), incentives for individual contributions to state court campaigns (Boyea 2017), campaign spending (Bonneau 2005a; Frederick and Steb 2008), and studies of judicial selection systems (Goelzhauser 2018). Lastly, two well-cited areas of research include media attention to state courts (Vining, Wilhelm, Collens 2015) and the professionalization of state supreme courts (Squire and Butcher 2021). The collective and recent body of law and courts research in *SPPQ* has made advancements towards a more complete understanding of how state courts operate and the forces driving the selection of state judges. *SPPQ* has become essential to state courts research since its founding - a pattern that has only earned greater importance with changes in the broader discipline.

Directions for Future State Courts Research

We have addressed the origins of state courts research and the strides that the subfield has made since the last state courts field essay in *SPPQ* in 2001. We now focus our efforts on identifying opportunities for further advances and research directions for the subdiscipline.

As we consider the direction of state courts, changing and emerging technologies are likely to play a prominent role. Though scholars are well-versed in the positive effects of local

journalism coverage on voter participation in state court elections (Hughes 2020), the types of state court cases that receive front page coverage of the most circulated state newspapers (Vining and Wilhelm 2011; Vining, Wilhelm, and Hendricks-Benton 2025), the relationship between state high court death sentences and front page newspaper coverage (Vining, Wilhelm, and Collens 2015), and the effects of newspaper reports of scandal on incumbent electoral performance (Canelo, Boyea, and Myers 2025), new media and direct interactions between judges and citizens will likely become more important. State judges use social media, like Twitter (now X), to directly engage the public (Curry and Fix 2019) and build social networks (Curry, Fix, and Romano 2024). As media environments continue to evolve, future research should consider the new ways that voters consume legal news, such as social media platforms, blogs, and podcasts to address how this affects voter behavior. One possible consequence is legal news sources at the state level may become nationalized, leading to increased polarization and decreased legitimacy for state courts.

With the rapid growth of artificial intelligence (AI), comes a growing need to understand the role of AI for the next frontier of state courts research. Data collection is a perennial problem. For example, data on decisional behavior in the state supreme courts (Brace and Butler 2001; M.E.K. Hall and Windett 2013) has been essential to the growth of the subfield but is costly and time consuming to collect. We anticipate that access to AI may accelerate advancements with data collection, including AI facilitated code designed for web scraping and data processing. This may also help generate updated decisional data, electoral competition data, and measures of justice ideology, and potentially expand each data collection to the lower state courts. Future research should address the implications of AI use in the courts and its impact on efficiency,

access to justice, perceptions of the institution, opinion writing, case outcomes, and questions about the ethical use of AI in state courts.

Changes in the electoral environments of the states provide further opportunities for innovative research. One important development is the post-partisan realignment in the South, an area where the end of Democratic one-party domination led to prominent changes in electoral competition (Kritzer 2015). Throughout the states, we see both growing levels of electoral competition (e.g., Rustbelt states like Ohio, Pennsylvania, and Wisconsin) and a shift towards one-party dominance in several states with judicial elections, resulting in systems with increasingly competitive primary elections and less competitive general elections (e.g., Alabama, Oregon, Texas, and Washington).

These changes in electoral competition allow scholars to dedicate attention to election outcomes, fundraising, and spending in primary elections, since existing judicial election scholarship has prioritized general elections. Further, as partisan cues have changed in one-party dominated states, scholars should consider the effects on voter turnout in this context, including the effect of information from various partisan factions. To follow that path allows an opportunity to consider whether Dubois' (1979) conclusions about the effect of partisan ballots on voting behavior still hold.

The nationalization of state supreme court elections (Weinschenk et. al. 2020) offers scholars an opportunity to determine its impact on voter participation and other forms of citizen engagement. These high-profile races, where letter-writing campaigns and campaign contributions come from out of the state, might also be particularly polarized. This is especially important since partisan polarization has negative consequences for citizen evaluations of state

courts (Barwick and Dawkins 2020). Polarization is a pressing issue for American politics but remains understudied in the context of state courts.

The U.S. Supreme Court has recently crafted free speech decisions that have implications for judicial elections. *Citizens United vs. Federal Election Commission*[11] and *McCutcheon v. Federal Election Commission*[12] loosened campaign finance restrictions with the potential to increase the amount of money spent in judicial elections. Boyea's (2020) evaluation of *Citizens United*'s impact on independent expenditures in state supreme court elections found spending by outside groups increased after the U.S. Supreme Court's decisions, yet outside spending increased most prominently in states that lifted their bans in response to the decision. Future work should continue to examine the implications of recent campaign finance decisions on state supreme court elections.

Furthermore, state court scholars should also continue incorporating theories from federal court research to discern whether they hold in state institutions and under what contexts. State court scholarship still has much to disentangle when it comes to how the chief justice role, bargaining, accommodations, collegiality, and policy preferences shape opinion assignments and decision-making, for example. However, the data available to operationalize these behaviors on the state level are limited.

Scholars should also extend theories from federal courts research that examine the role of judge identity on political ambition (Fox and Lawless 2011), qualification standards (Moyer, Harris, and Solberg 2022), and decision-making (Boyd, Martin, Epstein 2010). This is especially important given state supreme courts play an important role in policymaking. These extensions

[11] 558 U.S. 310 (2010)
[12] 572 U.S. 185 (2014)

can expand our understanding of how minority groups are represented and the role of judge identity in shaping election outcomes and diffuse support.

The connection between judge ideology and decision-making continues to be a pressing consideration for judicial politics (Segal and Cover 1989; Martin and Quinn 2002) and state courts research. However, more attention to improving the measurement of state supreme court justice ideology is warranted given existing limitations. Brace, Langer, and M.G. Hall (2000) opened the subfield to examining this line of research with their party-adjusted surrogate ideology measures (PAJID) of state supreme court justices, which consider a judge's party affiliation, and judicial selection method at the time of a judge's ascension to the bench (Brace, Langer, and M.G. Hall 2000). Their measure, including the updated scores by Hughes, Wilhelm, and Wang (2023), relied on state citizen and elite ideology scores from Berry et. al. (1998) to approximate justice ideology.

Addressing well-documented concerns about PAJID relating to the measure's failure to address ideological change and its predictive power, Bonica and Woodruff (2015) used campaign donations to create common space scores for both incumbents and challengers in judicial elections. However, electronic campaign finance data is not widely available before 1990, limiting the number of judges whose ideological preferences can be estimated. Windett, Harden, and M.E.K. Hall (2015) used item response theory (IRT) to generate dynamic estimates that allow the justices' ideological locations to change over time and mapped state-specific ideal points into the interstate common space estimated by Bonica and Woodruff's (2015) scores, meaning their scores also do not precede 1990. As such, PAJID scores remain the most comprehensive measure of state supreme court justice ideology, covering 1970 to 2019. These many avenues of future work will contribute to the continued growth of the state courts subfield.

Conclusion

State courts research has become an amalgamation of attitudinalism and strategic choice within the judicial subfield, and of institutional and behavioralism within political science more broadly. Foundational works by Dubois, Glick, Baum, and others provided early insights into how electoral competition and institutional contexts could shape the selection of state judges and voters' perceptions of the process. Scholarly understanding of the state courts has come a long way since its origins as a mere off-shoot of federal courts work.

By the 2000s, the state courts subfield had gained a significant foothold in political science research. Led by Melinda Gann Hall, Paul Brace, and Chris Bonneau, scholars began studying state courts, state court actors, and mechanisms that underlie judicial elections. In addition to top political science journals, state courts research began to hold its own panels at professional political science conferences and found a home in journals like *State Politics & Policy Quarterly*, *The Justice System Journal*, and *Judicature*.

Gone were the days where scholars tiptoed around the notion that judicial elections could be plagued by the machinations of politics as usual. With the emergence of new-style campaigns, state court scholars were eager to announce to the broader political science community that state court judges can be as ideological as their federally appointed counterparts, and judicial elections can be as cynical and brutish as congressional elections. With the state-level variation inherent in elected state courts and the environmental dynamics that loom large in the judge-constituent relationship, state courts scholars developed a behavioralist mindset to their inquiries.

As rational choice began to dominate state courts work, concerns about the politicization, and thus legitimacy, of judicial elections sparked discourse. Conventional wisdom insists that the judiciary should be an independent, impartial arbiter, but what happens when competitive elections

shatter that perception, with mudslinging and campaign contributions? State court scholars soon discovered that, like public opinion on federal courts, the public might be responsive to state court decisions in the short-term, but its perception of the institution does not easily waver.

State courts scholars have sought inspiration from federal courts work when building their data arsenal and research agendas. In addition to studies on inter-institutional dynamics, judicial behavior, and media coverage, works on judicial ideology and judicial voting have positioned themselves closely with the underlying datasets that support federal courts research and have the potential of benefiting from the growing suite of AI tools. While state court scholars have created a foundation for grasping the mechanisms that underly state courts, this foundation encourages future scholars to cultivate new pathways for understanding the contemporary state courts landscape as these elections become more nationalized, politicized, competitive, and expensive.

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Figure 1: Number of Journal Articles Mentioning State Courts (1990-2024)

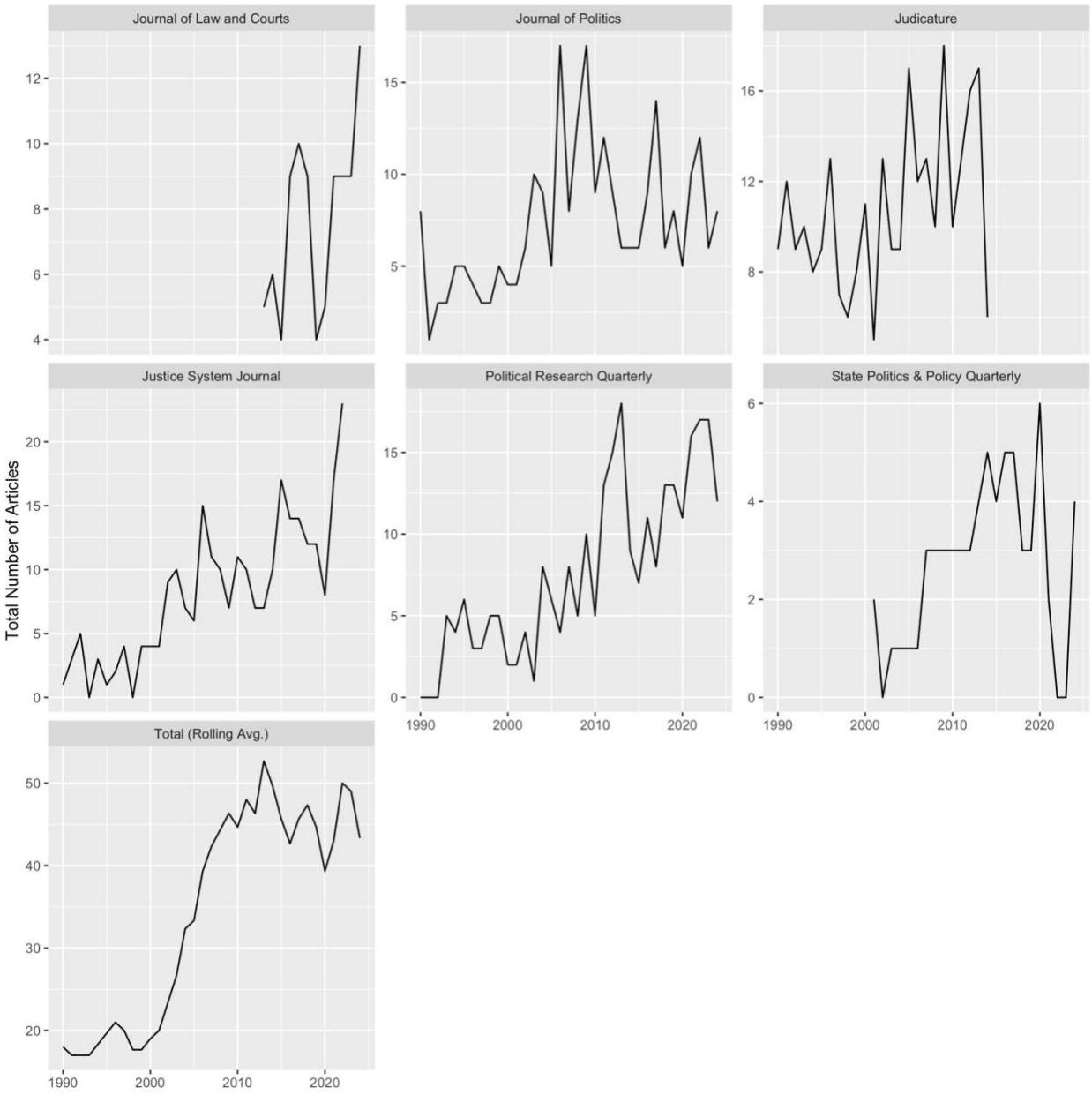

Figure 2: Number of Law and Courts Articles in *SPPQ* (2001-2025)