

## **Appendix A: Policy Request Types in the Judicial Agenda**

*Budget.* The judiciary depends on the legislative branch to allocate most of its operating funds. Items in this category are related to modifications of the judicial budget. They mention specific dollar amounts or changes to the budget for judicial operations and urge lawmakers to increase the judiciary's budget or refrain from budget cuts. We limit this category to general budget commentary. Requests related to a specific item or program, such as construction of a new courthouse or technology upgrade, are classified according to the item requested.

*Regular housekeeping.* Requests in this category relate to day-to-day operations of the judicial branch. These include, for example, requests to adjust procedural rules that affect case processing, fees, juror pay, or upgrades in courthouse technology.

*Additional judgeships/staff.* Some requests advocate the creation of judgeships. These are often supported by claims of excessive caseloads and statistical evidence about congested dockets. Chief justices also request additional support staff with the same rationale. Requests in this category are related generally to workload demands on the judicial branch and its ability to dispose of the cases on its docket.

*Salaries and benefits.* Judges often stress the need for pay increases for themselves and other court personnel. Requests in this category tend to appear when judicial salaries are stagnant or decline in value due to inflation.

*General legislation.* Chief justices sometimes participate in position-taking regarding legislation that is not specifically related to the judicial branch. These comments address the wisdom (legal, political, or otherwise) of pending legislation, usually with regard to its potential to affect the courts or individuals who participate in the civil and criminal justice systems.

*Study requests.* Chief justices occasionally request that problems in the courts be studied before a remedy is articulated or proposed. Examples of study requests include workload assessments or best reform practices for particular areas of justice.

*Structural change.* Chief justices sometimes ask for significant changes to the structural organization of state courts. These requests may include creation of a new court (e.g., an intermediate appellate court, of which 10 states in our study do not have), district reorganization, court consolidation, or jurisdiction changes for existing courts.

*Statutory revision.* Some requests by chief justices are specific directives for lawmakers to make statutory revisions to the criminal or civil code. This may include requests with limited impact (e.g., reclassification of certain drug/property crimes) or a broad impact (e.g., sentence guideline reform or the repeal of mandatory minimum sentences). Considering that this time period is consequential for both federal and state-level adjustments to sentencing practices (see *Apprendi v New Jersey* 530 U.S. 466 [2000] and *Blakely v Washington* 542 U.S. 296 [2004]), it is not surprising that chief justices in the states had related requests.

*Juvenile justice.* All states have juvenile court systems distinct from the criminal justice system. Chief justices consider the maintenance of this system as well. Requests regarding juvenile justice may be routine (e.g., hiring additional personnel) or important (e.g., sweeping juvenile code revision, sentence reform, or calls for greater access). The time period in our analysis follows the adoption of stricter laws related to juvenile justice in the 1990s. Thus, commentary by chief justices may reflect support or pushback for these changes.

*Public defense.* Chief justices sometimes request that lawmakers consider public and indigent defense when they allocate state resources. These requests usually call for greater resources for public defenders, expansion of criminal rights for indigent defendants, and more legal aid in

general. Overall, this type of request concerns public access in the legal system and reflects concerns about the expansion of judicial services.

*Judicial selection.* The methods of judicial selection vary in the states, with each state free to choose its favored method of selection and retention. Most states use elections to select or retain some or all of their judges. Chief justices sometimes offer proposals related to judicial selection reform including merit selection committees, term limits, campaign financing, and the political speech rights of judicial candidates. Chief justices may be proponents or opponents of these changes.

*Specialty courts.* Chief justices sometimes request the creation of specialty or problem-solving courts. These include drug courts, DUI courts, mental health courts, domestic violence courts, and other judicial processes developed to address social ills. Specialty courts have proliferated since the 1990s (Donoghue 2014). The time period in our study is likely to include references to these institutions as emerging alternatives to traditional criminal courts.

## Appendix B: The Prevalence of Partially Granted Requests

A possible concern regarding our use of a binary measure for our dependent variable is the prevalence of requests that are partially granted by the state legislature rather than completely denied or approved (0 or 1). An example of this is a chief justice's request for a specific budgetary amount. How do we measure whether this request was "enacted" if the state legislature granted a percentage of the request rather than the entire sum? It stands to reason that if such requests are prevalent in the data a binary dependent variable may be problematic. However, only 2 of 12 types of judicial improvement requests in our data merit such concern: those for additional judgeships/staff (N = 116) or budget adjustments (N = 75). Together, they comprise roughly 25 percent of our requests. Below we examine each of these categories of requests in order to assess the pitfalls of using a dichotomous dependent variable.

**Judgeships/staff requests:** Most requests for additional judgeships or staff are general requests to restore court personnel to full capacity. We categorized these as positive outcomes if the legislature granted these requests via statute in a manner consistent with the chief justice's desire. In terms of specific requests for judgeships or staff, most of these called for one or two judgeships or judicial appointments. Legislative response to these requests was easily measured. For the purposes of measuring our dependent variable, none of these requests are problematic. What might be considered problematic are the <10 percent of judgeships/staff requests that called for a greater number of appointments. These requests can be divided into two types: requests for a specific number of positions with reference to a named legislative proposal (N = 5) and specific requests without reference to a named legislative proposal (N = 5). For the first group, we determined whether the specific request was granted on the basis of whether the legislature passed the specific legislative proposal named in the request. A partial grant was not

possible since the request (although quantifiable) was connected to a single legislative bill. For the second group, we recognize that a partial grant was possible. Of these five requests, three were granted in total and two failed altogether. We coded them accordingly.

**Budget requests:** Similarly, budgetary requests in our data were primarily related to non-specific “increases” in judiciary funding or the discontinuation of budget cuts. They included general calls for the restoration of funds, support for budget stabilization plans, or increased funding for furlough elimination. Of the 75 total budget-related requests, 59 can be described in this way. We considered the outcome to be positive if the legislature granted these requests by statute. The remaining 16 items called for specific budgetary adjustments either for particular projects, a specific percentage increase, or to overcome a budget shortfall. Six of these requests were granted in full. Of the 10 that were not granted, six of the proposals were not included in the budget or statutorily addressed at all. The remaining four were given less than the percentage requested. These, which can be considered as partially enactments, were coded as “not enacted” in our dataset.

Per the details revealed above, we conclude that two requests for additional judgeships/staff and four budget-related requests could be considered problematic for our dichotomous (0,1) consideration of legislative response. Because this is less than 1 percent of our data, we are confident that the dichotomous characterization of legislative response is an appropriate measure of our dependent variable.

### **Appendix C: Supplemental Test: Chief Justice or Median Justice?**

Our primary model examines the effect of the ideological distance between the chief justice and the median legislator on the likelihood a request by the chief justice is adopted. An alternative explanation is that state legislators respond to the overall tenor of the state supreme court. This is feasible if legislators are influenced by the court's overall outputs rather than their perception of the chief justice. We provide an additional model here with the ideological distance between the state supreme court median and the median state legislator as the key independent variable. We then compare the explanatory power of this model to our model using chief justice-median legislator ideological distance presented above. The model results are in Table A1.

The two measures of ideological distance report very similar model estimates. However, the percent reduction in error for the chief justice model is 18.70 percent, while the model using court and legislative medians reduces prediction errors by only 14.50 percent. Further suggesting improved model fit the BIC for the model using chief justice distance is 973.92 while the value produced when using court distance is 975.61. We argue that the chief justice model is both more theoretically accurate and better able to predict positive outcomes.

**Table A1. Logistic Regression Results for Judicial Requests Granted by the State Legislature (with Court Median-Legislative Ideological Distance)**

Variable	Coefficient (Standard error)
Court median-legislative ideological distance	-0.65* (0.24)
Divided government	0.04 (0.23)
State unemployment rate	0.04 (0.08)
Important request	-.60^ (0.32)
Legislative audience	1.90* (0.23)
Judicial elections	0.46* (0.20)
Elected chief justice	-0.03 (0.35)
Female chief justice	-0.16 (0.20)
Chief justice tenure	-0.06* (0.02)
State court professionalism	-0.65 (1.01)
State legislative professionalism	3.64* (1.06)
Underrepresented group issue	0.95* (0.24)
Total agenda size	-0.15* (0.04)
Constant	-2.10* (0.43)
N	
	706
BIC	
	975.61
PRE	
	14.50%

Robust standard errors clustered on states are in parentheses.

\*Significant at  $p < 0.05$ ; ^significant at  $p < 0.10$