

# The Effect of Ideological Divergence on Agency-Circuit Interactions

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# Research Question

*Amicus* briefs are costly to file, but can potentially persuade judges by providing new information, outlining legal arguments, and signaling to the circuit the agency's preferred policy. If bureaucratic agencies wish to use the courts to change policy, when does the potential for influence exceed the cost of filing?

# Motivation

Existing literature on *amicus* briefs combines agencies together with state governments and Solicitor General briefs as “government briefs.” It also focuses on the Supreme Court and Solicitor General as a representative of the President, not on agencies distinct from the President or the lower courts.

# Theory

- Underlying theory stems from research on Solicitor General and Supreme Court.
- Informationally disadvantaged courts and the role of informational briefs (Supreme Court, Solicitor General = Circuit Courts, agencies)
- Ideological distance, the Ally Principle, further support in terms of the Solicitor General having more influence when the Supreme Court is closer ideologically. Agencies and judges are both ideological.
- Agency purpose influences the tasks that agencies undergo. Agencies with different purposes undergo different tasks in different ways.

# Hypotheses

- Hypothesis 1: Agency informational advantages become more prominent when circuit caseload increases, resulting in more filed briefs.
- Hypothesis 2: There is an optimal ideological distance between an agency and circuit where agencies filings increase.
- Hypothesis 3: Civil rights agencies should file more briefs than non-civil rights agencies due to differences in agency purpose.

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# Data

- 2000-2012 with 8 agencies
- Count of *amicus* briefs filed by an agency in each circuit in each year.
- Workload is logged number of filed cases by authorized judgeships
- Nominate-scale ideology scores from Chen and Johnson (2014), Epstein et. al. (2007).

# Variables

- DV: Count of agency briefs filed in a circuit-year

Table: Variable Table

Variable	Measurement
Count of Amicus Briefs Filed	Count, 0-8
Circuit Agency Ideology Diff.	Absolute value(circuit-agency ideology)
Productivity	Judicial workload divided by circuit judges.
Budget	Actual dollar of Congressional money
Civil rights agency	Dummy, 1 for civil rights agency

# Expectations

# Models

## Zero-Inflated Negative Binomial

- Over 60% of observations are 0
- 215 of remaining 369 observations are 1
- Fixed effects for year, circuit, and agency

$$Y = \alpha + \beta_1 Distance + \beta_2 (Distance * Distance) + \beta_3 Caseload + \beta_4 Budget + \beta_5 CivilRights + i.agency + i.circuit + i.year$$

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# Results

# Results (Tables/Graphs)

# Takeaway Points

# Agencies

- Equal Employment Opportunity Commission
- Federal Trade Commission
- Securities and Exchanges Commission
- Department of Justice: Antitrust and Civil Rights divisions
- Department of Labor: Fair Labor Standards, Occupational Safety and Health, Plan Benefits and Security

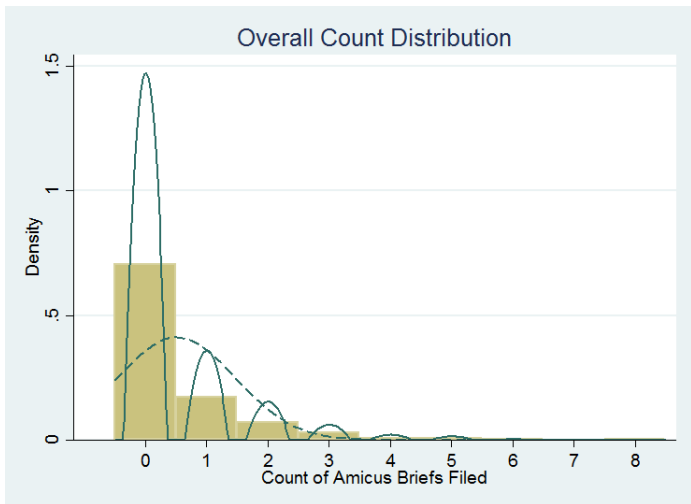
# Dependent Variable Frequencies

Figure: Frequencies of Count Dependent Variable

Count of Filings	No. of Obsv.	Prct. of Obsv.
0	879	70.43
1	215	17.23
2	92	7.37
3	37	2.96
4	13	1.04
5	9	0.72
6	2	0.16
8	1	0.08

# Dependent Variable Distribution

Figure: Distribution of the Dependent Variable Overall



# Zero-Inflated Negative Binomial

	Count	Inflation
Ideological Distance	1.305 (1.754)	395.3 (235.0)
Ideological Distance Sq.	-1.401 (1.963)	-439.7 (256.4)
Cases/Judgeships	0.999* (0.456)	5.286 (3.653)
Civil Rights	1.003*** (0.201)	-3.944*** (1.184)
Budget (millions)	-0.00195** (0.000705)	0.00000703 (0.00143)
_cons	-6.761** (2.556)	-118.4 (74.64)
N	1248	

Standard errors in parentheses

\*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

# Multinomial Logit

	One Brief	Multiple Briefs
Ideological Distance	-2.165 (1.899)	-0.203 (2.538)
Ideological Distance Sq.	0.960 (3.070)	-0.770 (3.544)
Caseload	2.305 (1.749)	2.174* (0.918)
Civil Rights	1.618*** (0.116)	2.557*** (0.398)
Budget (millions)	-0.00259*** (0.000616)	-0.00510*** (0.00126)
_cons	-14.13 (9.870)	-14.35* (5.649)
N	1248	

Standard errors in parentheses

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