A Roadmap to Nomination: The Predictive Power of US Attorney Short Lists

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Honors Thesis

Abstract

United States Attorneys are some of the most important actors in the American justice system. Appointed by the President and confirmed by the Senate, they "well-connected, middle-aged, politically active members of the establishment." They set the agenda for prosecuting and shape the American criminal justice landscape. US attorneys do not depend on any single actor, and work in a strategic environment that affords them substantial discretion (Eisenstein). While strong research exists on US Attorneys, it focuses primarily on their behavior in office, once they are already past the nomination process. The literature discusses the nomination process for US Attorneys, but prior to this research, no data existed on US Attorney short lists. Short lists are immensely important in understanding who gets chosen for a Presidentially-appointed and Senate-confirmed position and why they were seen as the best choice. Thus, this research collected data on a random sample of US Attorney short lists, including candidates' legal education, prior work experience, and personal characteristics. After collecting and analyzing various effects on selection likelihood, I found that holding a position as an Assistant US Attorney and being a racial minority were positive predictors of being selected as a USA.

Hypotheses

- Attending a home-state or top-14 ranked law school will increase a candidate’s likelihood of being chosen as US Attorney.
- Working in the public sector will increase a candidate’s likelihood of being chosen as US Attorney; as will being an Assistant US Attorney.
- Being a female or minority candidate will increase likelihood they are chosen as USA.

Key Variables

- Dependent Variable: Whether or not a candidate was selected to fill a US Attorney vacancy.
- Independent Variables:
  - In-State Law School. I measure those who attended a law school in-state versus those who took their legal education out-of-state. Because all candidates work in the state they are being considered to represent at US Attorney, attending a law school in that state can be a more accurate measure of "home state advantage."
  - Law School Rank. I coded whether a candidate attended a top-14 ranked law school, which measures the prestige of their legal education.
  - Public Sector Job. I coded whether or not a candidate was working in the public sector at the time of consideration.
  - Public Sector Experience. I coded whether a candidate had any experience working in the public sector, at any point in their legal career.
  - Assistant US Attorneys. This variable measures Lochner’s idea that AUSAs have been increasing their tenure since the 1990s, thus increasing their ability to rise to the role of US Attorney.
  - Gender. To measure if gender plays a role in the comparison of candidates across short lists, female candidates were coded differently than male candidates.
  - Race. To determine the importance of representing a racial minority on a short list, minorities were coded differently than Caucasian candidates.

Findings

<table>
<thead>
<tr>
<th>Various Effects on Selection Probability</th>
<th>Coefficient</th>
<th>Std. Error</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Education</td>
<td>-0.11027</td>
<td>0.08173</td>
</tr>
<tr>
<td>Attending in-state law school</td>
<td>0.009524</td>
<td>0.077915</td>
</tr>
<tr>
<td>Attending top-14 law school</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous Employment</td>
<td>0.09787</td>
<td>0.09389</td>
</tr>
<tr>
<td>Working in public sector at time of consideration</td>
<td>0.03019</td>
<td>0.11518</td>
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<tr>
<td>Work experience in public sector</td>
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<td></td>
</tr>
<tr>
<td>Being AUSA</td>
<td>0.23232*</td>
<td>0.10384</td>
</tr>
<tr>
<td>Personal Characteristics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female Candidates</td>
<td>0.07631</td>
<td>0.09425</td>
</tr>
<tr>
<td>Racial Minority</td>
<td>0.37341*</td>
<td>0.14213</td>
</tr>
</tbody>
</table>

*p<.05 (one-tailed test)

Regression Model

This regression model demonstrates two significant variables moving in the expected direction: being an Assistant US Attorney and being a minority.

While only two variables demonstrated significance in the model, the results support both the hypotheses and the existing literature on AUSAs and racial demographics of the legal profession.

Key Takeaways:
- Being an Assistant US Attorney is a positive predictor of selection likelihood.
- Being a minority is a positive predictor of selection likelihood.

Conclusion

While only two variables proved significant, this research informs us about commonalities across US Attorney short list candidates that we did not know before. While a candidate's legal education did not have as much predictive power as I expected, previous work experience did, specifically the idea that being an AUSA is a positive predictor of being selected as a USA. Additionally, being a racial minority also demonstrated positive predictive power. By understanding what does not predict US Attorney choices leads us one step closer to understanding what does, paving the way for future research.