

# 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 post 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

### Regression Model

Various Effects on Selection Probability	Coefficient	Std. Error
Legal Education		
Attending in-state law school	-0.11027	0.08173
Attending top-14 law school	0.009524	0.077915
Previous Employment		
Working in public sector at time of consideration	0.09787	0.09389
Work experience in public sector	0.03019	0.11518
Being AUSA	0.23232*	0.10384
Personal Characteristics		
Female Candidates	0.07633	0.09425
Racial Minority	0.37341*	0.14213

\* $p < .05$  (one-tailed test)

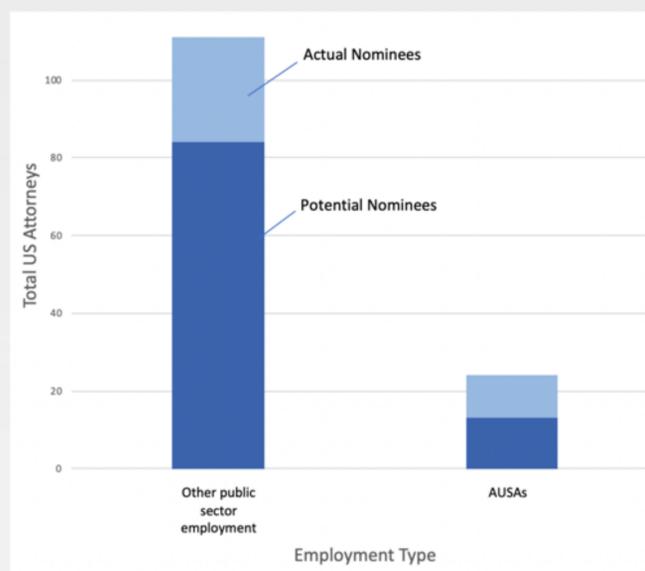
This regression model demonstrates two significant variables moving in the expected direction: being a Assistant US Attorney and being a minority.

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:

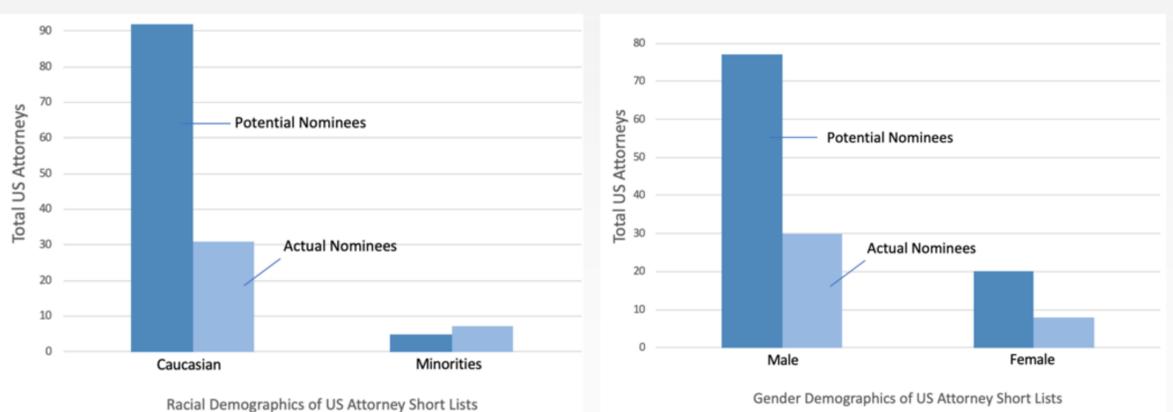
- Being an Assistant US Attorney is a positive predictor of selection likelihood
- Being a minority is a positive predictor of selection likelihood

## Previous Work Experience



Although only a relatively small portion of US Attorney short lists are comprised of AUSAs, this graph demonstrates the solid representation of AUSAs chosen for the US Attorney post. From their respective short lists, about 46% of AUSAs were promoted to US Attorney, which is more than their predicted likelihood of selection without having AUSA tenure.

## Female and Minority Candidates



While minorities represent a small portion of short lists, they represent more of the actual USA population than of the potential pool.

## 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.