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# Partisan Rigor in the Judicial Confirmation Process

By

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## **Abstract**

In this thesis, I describe how the confirmational rigor applied to judicial nominees is related to whether a senator shares the party of the president. I first conduct a sentiment analysis and use the scores as an initial proxy for rigor with more negative/less positive results indicating greater rigor (and vice versa). To further substantiate these findings, I next present the results of collocation and topic model analyses which show the recurring themes of the hearings. Throughout, I provide a hand-content analysis of the confirmation hearing transcripts to give necessary context. I find that overall rigor applied to nominees moving between district and circuit courts decreases for senators who share the party of the president. At the same time, the overall rigor applied to these nominees increases for senators of the party opposite the president. Applying these same tests to nominees moving from a circuit court to the Supreme Court, I find a minimal increase in rigor applied to nominees by members of both parties. I conclude by discussing the impact of my results and commenting on ways to improve and expand my analysis.

## **Introduction**

It has been over a decade since the last Supreme Court justice was confirmed with more than 54 votes. The majority of the justices now on the nation's highest court were confirmed by less than a two-thirds vote. Gone are the days when judges like Andrew M. Kennedy, Antonin Scalia, and Sandra Day O'Connor were confirmed with zero opposition (Senate.gov<sup>1</sup>, 2022, p.1). In recent years, the hyper-partisan nature of confirming justices and judges to federal courts has led to a dramatic decrease in the Senate vote margins for judicial nominees. In 2017, the margins for Supreme Court confirmations had narrowed to such a point that Senate Republicans

employed what was known as the “nuclear option” to confirm Neil Gorsuch to the Supreme Court (Everett & Kim 2017, p.1). Instead of the previous 60-votes necessary for invoking cloture and confirming a justice, Supreme Court nominees could now be confirmed with just a simple majority. Earlier in 2013, Senate Democrats had invoked a similar “nuclear option” that reduced the 60-vote threshold necessary for invoking cloture and confirming U.S. Circuit and District Court judges to a simple majority (Everett & Kim 2013, p.1).

Certainly, the recent effect of polarization on the judicial confirmation process has fundamentally changed the vote margin necessary to confirm judges and justices. With just a simple majority required for a nominee to be confirmed, whichever party controls the Senate (with whatever majority) can unilaterally confirm any nominee. If the majority party can so easily ram through nominees, one may wonder what level of rigor is applied to judicial nominees or what confirmation hearings truly function as. This thesis does not provide an answer as to how genuine or substantial the confirmation process is (as such a study will almost necessarily reflect the author’s biases). Instead, I will describe what the current state of confirmational rigor looks like across the various levels of the federal judiciary. To understand the rigor applied to nominees for these benches, I look not at the vote totals themselves but at the rigor demonstrated within candidates’ confirmation hearings.

For the purposes of this thesis, I have defined rigor as a critical examination of and resistance to a nominee. The rigor observed in these hearings (1) is qualitatively negative and (2) represents an oppositional process undertaken by senators who push back against or expect a higher standard from nominees. With this thesis, I set out to answer the following research question: *How does the rigor applied to nominees differ depending on partisanship and the federal bench for which candidates are nominated?*

## **Place in the Literature**

Much of the scholarly literature on the subject of judicial confirmations has focused on confirmations for the highest level, namely the U.S. Supreme Court. This literature has produced a rough consensus that confirmation hearings can be conditional on the strength of the nominee or on the strength of the President making the nomination. For instance, in an early paper, Charles M. Cameron, Albert D. Cover, and Jeffrey A. Segal (1990) developed a model to explain individual senators' votes to confirm Supreme Court nominees (Cameron, Cover, & Segal, 1990, p.525). The authors pinpointed two critical variables to confirmational success: (1) the strength of the president and (2) the qualifications of the nominee (Cameron, Cover, & Segal, 1990, p.532). Their conclusion was "When a strong president nominates a highly qualified, ideologically moderate candidate, the nominee passes the Senate in a lopsided, consensual vote... When presidents nominates a less well qualified, ideologically extreme candidate, especially when the president is in a weak position, then a conflictual vote is likely" (Cameron, Cover, & Segal, 1990, p.532). Their model's dummy variable for "strong" was coded for when the president's party held the majority in the Senate and the president himself was not in the fourth year of his term (Cameron, Cover, & Segal, 1990, p.530). Interestingly, this definition of presidential strength would mean that Donald Trump in 2017 was a "strong" president when he nominated Neil Gorsuch to be on the Supreme Court. Furthermore, Neil Gorsuch at the time unanimously received the ABA Standing Committee on the Federal Judiciary's highest rating of "Well-Qualified" (Degan, 2017, p.2). Applying the authors' model, Gorsuch should have likely been confirmed by the Senate by the 60-vote margin but instead was not. Of course, Gorsuch may just be one counterexample to Cameron, Cover, and Segal's overall theory, but one should

not forget how his confirmation process completely changed Senate procedure on Supreme Court confirmations.

A more recent piece by Lee Epstein, René Lindstädt, Jeffrey A. Segal, and Chad Westerland (2006) reanalyzed Cameron, Cover, and Segal's work (Epstein et al., 2006, p.298). The authors modernized what they deemed the "CCS model" by looking at five variables: (1) a nominee's qualifications, (2) the strength of the president, (3) whether a senator shares the same party as the president, (4) ideological distance between the senator and the nominee, and (5) the interaction between ideological distance and qualifications (Epstein et al., 2006, p.298). By revisiting the CCS model, the authors found that less weight was now placed on a Supreme Court nominee's qualifications whereas more weight was placed on their ideology (Epstein et al., 2006, p.302).<sup>1</sup> This explanation better resolves how Gorsuch, who was seen by some as possibly extreme, could fail to surpass the 60-vote threshold for confirmation (Black & Owens, 2017, p.1). However, Epstein et al.'s theory stops short of explaining whether the same five variables for confirmation success could be translated to confirmation outcomes for nominees to the U.S. District and U.S. Circuit courts.

Roger E. Hartley and Lisa M. Holmes (2002) shed some light on the increased rigor of these less studied levels of the judiciary (Hartley & Holmes, 2002, p.259). They argue that the increases in rigor applied to lower court nominees has largely been due to confirmation delay and institutional reforms (Hartley & Holmes, 2002, pp.263, 276-278). Candidates underwent more screening and rigor over the course of the twentieth century as more time and people were employed to oversee the nomination and confirmation processes (Hartley & Holmes, 2002,

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<sup>1</sup> In Epstein et al. (2006), ideology was measured as a function of distance between the senator and the candidate. "CCS employed senators' Americans for Democratic Action (ADA) scores to measure their ideology and the Segal-Cover score, which they derived from an analysis of newspaper editorials (see Segal and Cover 1989), to assess nominees' policy preferences. CCS then compared the two on the 'same metric'" (Epstein et al. 2006, p.298).

p.277-278). As a result, fewer nominees were confirmed (Hartley & Holmes 2002, p.276).

Though the authors noted that “[p]eriods of divided government tend to coincide with periods of increased confirmation delay,” they deemphasized the importance of political factors<sup>2</sup> relative to confirmational delay and institutional reforms (Hartley & Holmes, 2002, p.277).

It is questionable whether these political factors along with increased partisanship today play a greater role in confirmational success. It is unclear from the Hartley & Holmes’ piece whether polarization spurs more confirmational delay as a tactic for the party opposite the president to slow his agenda. This would help explain why it became so difficult in Obama’s term in office to confirm judges to lower courts that simple confirmation delay reforms were not enacted. Democrats at the time saw Republicans as blocking the president’s nominees because of their politics alone. President Obama even claimed at the time that “This isn’t obstruction on substance, on qualification. It’s just to gum up the works” (Everett & Kim, 2013, p.2). To end this political obstruction, Democrats believed that a rules-change that decreased Republicans’ ability to forestall the confirmation process was necessary. If Obama and the Democrats are to be believed, one must seriously reconsider the veracity of Hartley & Holmes’ claim that increases in confirmational rigor are the result of institutional rather than partisan factors.

Yet, Hartley & Holmes’ analysis is still foundational to this study in that it is one of the only works that looks at rigor at the lower court level. In addition, an even wider gap in the literature exists to connect the study of the lower court confirmation processes to that of the Supreme Court. This thesis attempts to (at least in part) fill this gap by looking across confirmation hearings of candidates nominated to two federal courts in order to assess how rigor changes the higher the court one is nominated to.

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<sup>2</sup> Political factors that Hartley & Holmes (2002) deemphasized include “divided government and the relationship between the president and the chair of the Judiciary Committee” (Hartley & Holmes, 2002, p.277).

## Theoretic Framework

The purpose of confirmation hearings is to allow the Senate to fulfill its constitutional obligation to “advise and consent” with respect to a judicial nominee. First, a president nominates a candidate to be an Article III judge to a U.S. District, Circuit, or Supreme Court. Next, the Senate typically takes up the nominee, putting them through a confirmation hearing wherein the members of the Senate Judiciary committee question the candidate (CRS 2022, p.ii). The length of these hearings varies significantly depending on the bench a candidate has been nominated to. On the one hand, the typical process for those nominated to U.S. District and Circuit courts is such that nominees are heard in hearings lasting a single day while multiple other U.S. District and Circuit court nominees are also heard. In these hearings, circuit court nominees are typically asked more questions by senators than those nominated to a district court. On the other hand, the typical process for those nominated to the U.S. Supreme Court is such that four days are set for confirmation hearings. During these hearings, no other nominee is heard, and significantly more questions are asked by senators to the nominee.

The behaviors exhibited by senators during these confirmation hearings can be explained by rational choice theory. David R. Mayhew’s rational choice model of congressional behavior assumes three basic activities engaged in by legislators motivated by their desire to win reelection (Mayhew 1974, p.49). Two of these three basic activities, position taking and advertising, are engaged in by senators during judicial confirmation hearings. First, hearings offer the opportunity for senators to expose their beliefs on various judicial matters, providing a unique opportunity for senators to take positions on these matters in an environment with high visibility (Mayhew 1974, pp.61-73). Of course, position taking comes with the risk of potentially alienating voters. “[P]articuliar issues often have their alert publics” (Mayhew 1974, p.66).

Depending on the issues brought up in the hearings, senators may offend these alert publics by taking unpopular positions, and so senators may often wish to talk about the issues that they believe are most popular to their base and/or to their constituency. Second, hearings offer senators the opportunity to advertise themselves grandstanding on issues in order to provide a soundbite and improve their visibility in the press and among constituents (Mayhew 1974, pp.49-52). Senators' questions for nominees demonstrate their support for or opposition to the president, allowing them an extremely visible opportunity to either display their positions or at least themselves to the wider public. In this thesis, I assume that the confirmational rigor applied to nominees includes at least in part this self-interested element.

Confirmational rigor can be thought of as the overall senatorial rigor applied to nominees—substantial or otherwise. I define rigor as a critical examination of and resistance to a nominee. Rigor (1) is qualitatively negative and (2) represents an oppositional process undertaken by senators who push back against or expect a higher standard from nominees.

One weak test to look at overall rigor applied to judicial nominees would be to compare the vote margins across individual judicial nominees' career histories. In this case, one could map the individual vote totals in support of a nominee over time into a separate graph for each level of the judiciary (District, Circuit, and Supreme). One could then create a line of best fit to determine the level of support nominees for each level have had over time. Finally, one can overlay the three lines of best fit onto one graph and compare each judicial level's line of best fit to see the variation in average support for judicial nominees across different levels of the judiciary.

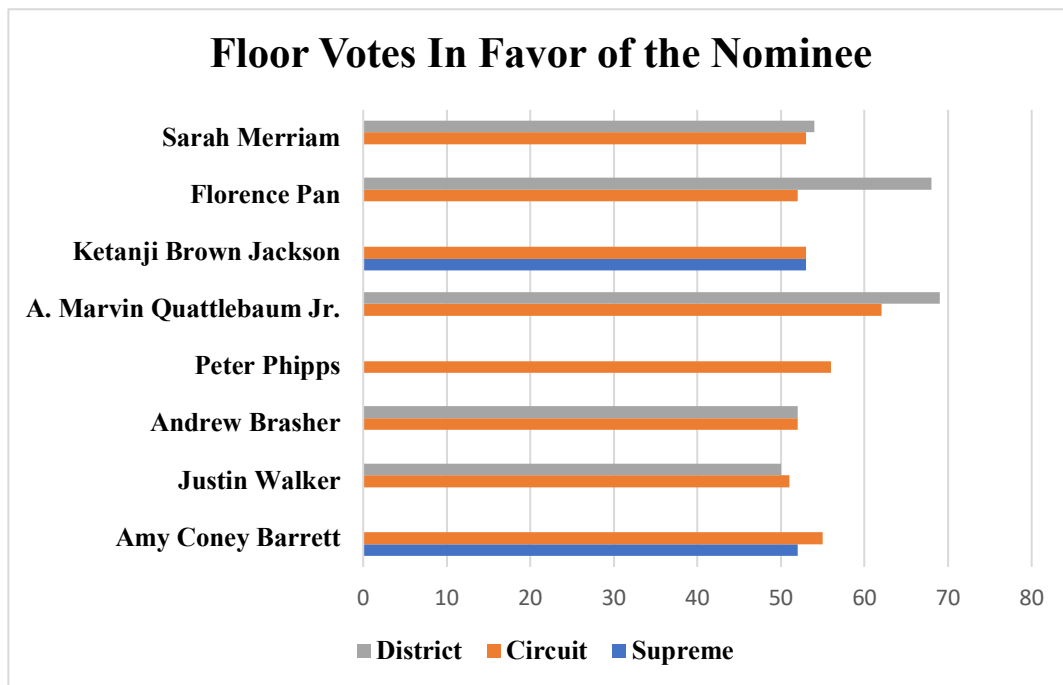
Though this method has some potential benefits in that the sample size of nominees it chooses to look at would be large enough to perform a scrupulous statistical analysis on, a huge



drawback exists in that the differences in nominees themselves are not controlled for. Say, for instance, that the average nominee for a U.S. Circuit Court of Appeals is far more qualified than the average nominee for a U.S. District Court. The average nominee for the U.S. Circuit Court of Appeals could therefore enjoy higher vote totals than the average U.S. District Court nominee not because they face a less scrutinous process but because they are more equipped to handle the confirmation process.

Another way to look at overall rigor applied to judicial nominees would be to compare the vote margins across individual judicial nominees' career histories. For instance, one could compare the Senate confirmation vote total for Amy Coney Barrett's confirmation to the Seventh Circuit Court of Appeals with the vote total for her confirmation to the Supreme Court.

Figure (1)<sup>3</sup>



<sup>3</sup> Peter Phipps's confirmation to the U.S. District Court for the Western District of Pennsylvania was done via a voice vote and therefore does not have an attached numeric floor vote total.

(Above one can see the confirmation votes of Trump and Biden nominees appointed to two levels of the judiciary within the same administration. As one can see, Justin Walker was the only nominee who gained votes in his favor as he was elevated to a higher court.<sup>4</sup> Every other nominee either maintained or lost the support they had previously received on the floor. Thus, the margin for the higher court is generally smaller—and sometimes quite a bit so—than the margin in the lower court.)

However, this comparison looks at only the end results of the confirmation processes and fails to consider how polarization may not only cause more divided votes but also more disparate opinions and rigor regarding candidates. For instance, in the case of Ketanji Brown Jackson's career history, she had just as many votes in favor of her confirmation to the U.S. Court of Appeals for the D.C. Circuit as she had in favor of her confirmation to the U.S. Supreme Court. However, when she was up for the Supreme Court seat, she actually gained the vote of Senator Mitt Romney and lost the vote of Senator Lindsey Graham. Senator Romney and Senator Graham voted on the floor for both of Judge Jackson's confirmations; for various reasons, they decided to change their votes. Looking at the end vote totals obscures this change and fails to show what could have led to a different result. Hence, there is a need to do a more in-depth study of the nominees' confirmations.

By analyzing the transcripts of the hearings of Trump and Biden nominees appointed to two levels of the judiciary within the same administration, I hope to elucidate the rigor of the confirmation process. These hearings provide insight into sentiment of senators and reveal how partisanship shapes what they say, do, and ask. In looking at Trump and Biden nominees, I

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<sup>4</sup> Justin Walker's first confirmation vote to the U.S. District Court for the Western District of Kentucky was 50-41. His second confirmation vote to the U.S. Court of Appeals for the District of Columbia Circuit was 51-42. Though Justin Walker received more votes in favor of his second confirmation, he also received more votes opposed.

attempt to provide a more balanced (albeit still partisan) approach. In my thesis, the common themes I draw regarding party difference look at senators' parties as either supporting or opposing the president rather than as Democrats or Republicans. I initially hypothesized that, across the different levels of the judiciary, senators of the same party as the president would grow more scrutinous due to the need for greater rigor on confirmations of higher importance but at a far smaller rate than senators of the opposing party.

### **Methodology & Data**

In order to test this hypothesis, I performed multiple forms of textual analysis. First, I calculated the sentiment scores of the parties in the hearings to come up with an initial proxy for rigor. As I have defined it, rigor is qualitatively negative. The more rigorous a senator's interrogation is, the more critical their examination of the nominee will be. A senator offering a harsher, more negative criticism of the nominee will thus be considered more rigorous. In this case, lower sentiments would relate to higher rigor and vice versa. Second, I produced a list of the top ten most common collocations to understand some of the major concepts linked together throughout the confirmation hearings. This collocation analysis would help me better understand the confirmational rigor applied in the hearings and add greater weight to the proxy variable of sentiment scores. Next, I generated a topic model and produced the top ten topics of each set of Supreme Court confirmation hearings that most acutely characterize the major themes of those hearings. Both the collocation analysis and the topic model analysis offer me the opportunity to further explore the rigor of the hearings by demonstrating instances of pushback against or higher standards for the nominees. Because these textual analysis tools cannot fully explain the most important pieces of these texts, I have throughout performed a hand-content analysis of the

hearing transcripts to understand the major themes and differences in rigor between the parties and across various levels of the judiciary.

To conduct my analysis of Trump and Biden nominees appointed to two levels of the judiciary within the same administration, I downloaded all available transcripts from ProQuest Congressional. Between Trump and Biden, eight individuals were confirmed to two levels of the judiciary: Amy Coney Barrett (Trump), Justin Walker (Trump), Andrew Brasher (Trump), Peter Phipps (Trump), A. Marvin Quattlebaum Jr. (Trump), Ketanji Brown Jackson (Biden), Florence Pan (Biden), and Sarah Merriam (Biden). Unfortunately, complete transcripts for both sets of hearings candidates were only available for five of these people: Amy Coney Barrett (Trump), A. Marvin Quattlebaum Jr. (Trump), Ketanji Brown Jackson (Biden), Florence Pan (Biden), and Sarah Merriam (Biden).<sup>5</sup> Two of these were appointed by President Trump, and three were appointed by President Biden, respectively.

I processed and edited these confirmation hearing transcripts in R Studio and gathered the following data.

### *Sentiment Score Data*

To come up with an initial proxy for rigor, I calculated the sentiment scores of the parties in the hearings. These scores were computed on the basis of a word-by-word matching with a standard measure of the emotional tone (negative to positive). In this case, higher sentiment scores would relate to lower rigor and vice versa. I assumed here that senators who were

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<sup>5</sup> ProQuest Congressional did not have complete transcripts for both confirmation hearings of Justin Walker, Andrew Brasher, and Peter Phipps. Often, it was the case that only one hearing text was available. However, because this is an inherently comparative study, I could not analyze one hearing transcript without the other.

generally more (less) positive in their language would be less (more) rigorous in their examination.

Of course, this initial assumption is certainly controversial. The ‘bag of words’ approach does not consider words in any context, and irony, sarcasm, or implicit meaning will be invisible. The bag of words approach also does not consider the effect of double negatives, such that the “least bad” nominee would be counted as two negative words, instead of one negative word modifying a second negative word. Contrarily, the words a senator speaks may be cloaked in positive language but actually offer a rigorous question or comment to the nominee. Mere senatorial formalities may play an outsized role in raising sentiment scores without offering any substantial evidence of rigor. That said, sentiment analysis offers a useful starting point for determining confirmational rigor that I will dive deeper into with further analysis adding explanatory weight to perceived sentiment differences.

To conduct this sentiment analysis, I used the AFINN lexicon. Developed by Finn Årup Nielson, the “AFINN lexicon is a list of English terms manually rated for valence with an integer between -5 (negative) and +5 (positive)” (Perry p.1). I compared the sentiments of Democratic and Republican senators and their parties to see how average sentiments changed over the process.

Figure (2)

A. Marvin Quattlebaum Jr. Confirmation Sentiments by Party

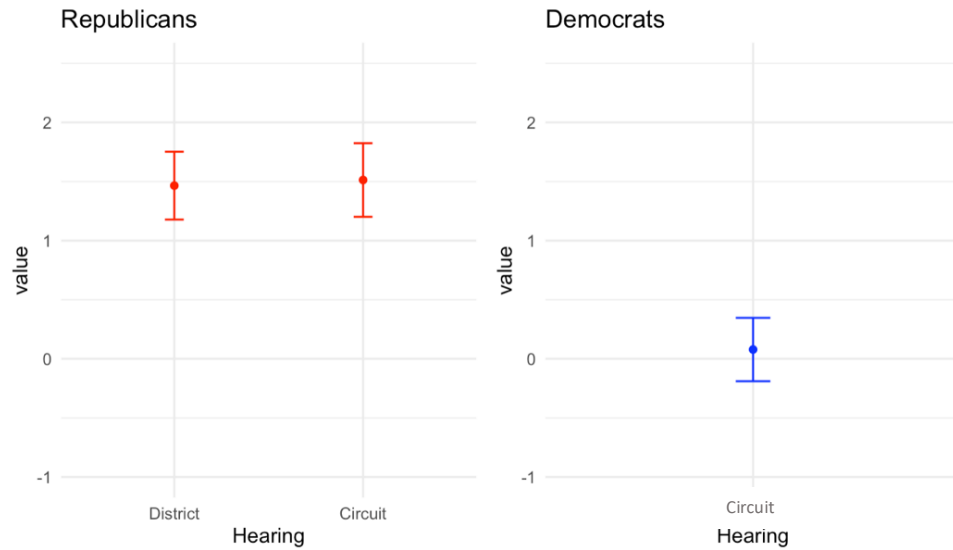
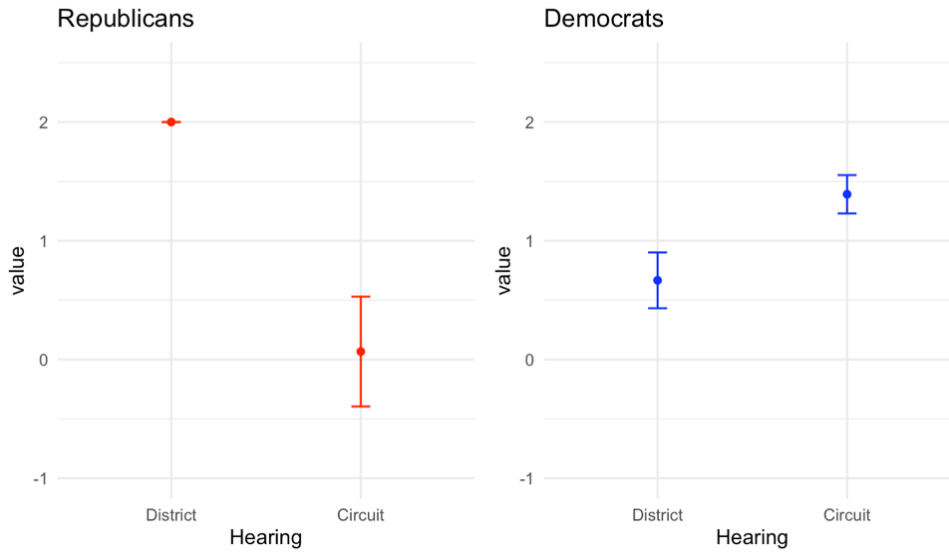


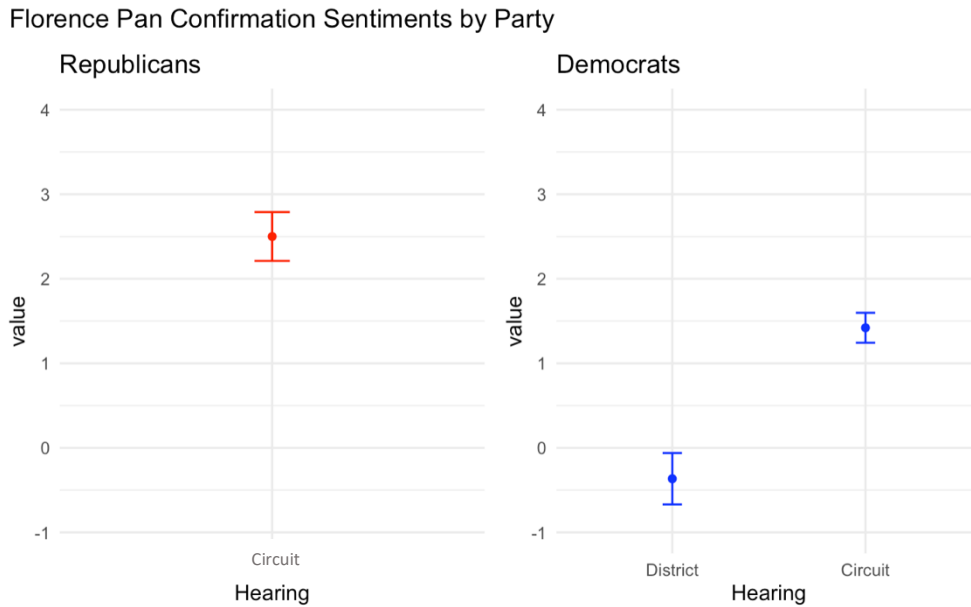
Figure (3)<sup>6</sup>

Sarah Merriam Confirmation Sentiments by Party



<sup>6</sup> In Figures (3) and (4) a peculiar finding can be observed: The party opposite the president does not participate in asking questions to the nominee in their district court hearing. This insight helps demonstrate how minimal the rigor of the process is at this lowest court level. For practically all district court nominees, few questions are asked by both parties in the hearings, and in some cases, only the supporting party faces the nominee.

Figure (4)



I started my sentiment analysis but interpreting the sentiment scores of candidates moving from a district to a circuit court. For all three nominees, the same pattern occurred. First, senators of same party as the president tended to become more positive, the higher the court. By calculating the standard error, I even found that the increase in positivity observed in the cases of the Sarah Merriam and Florence Pan was statistically significant. In other words, the average party sentiment for senators of the same party as the president significantly increased as both Biden nominees were elevated to the circuit court. Second, senators of the party opposite the president appear to become more negative the higher the court. In the case of Sarah Merriam, again there was a statistically significant decrease in average opposing party sentiment as she moved to the circuit court.

Figure (5)

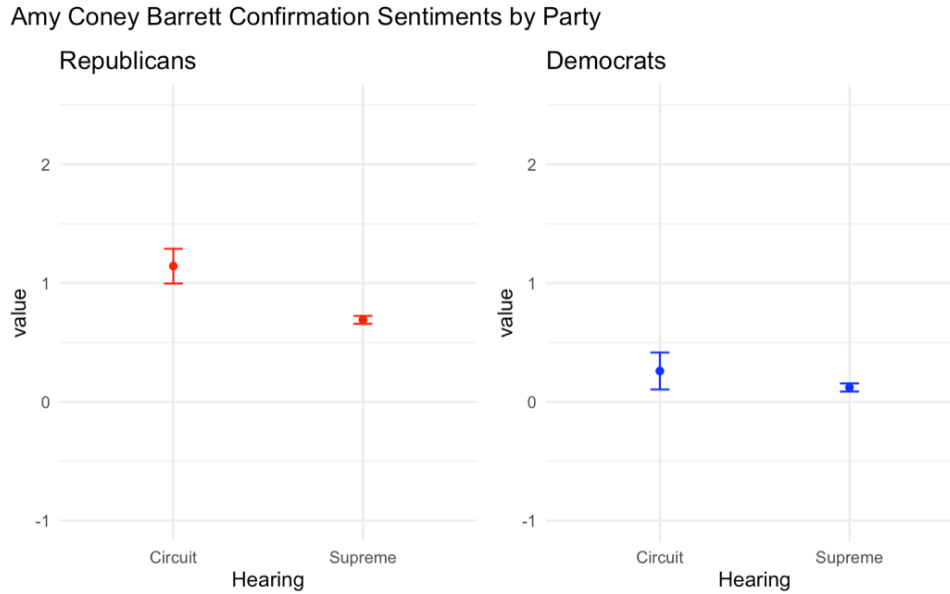
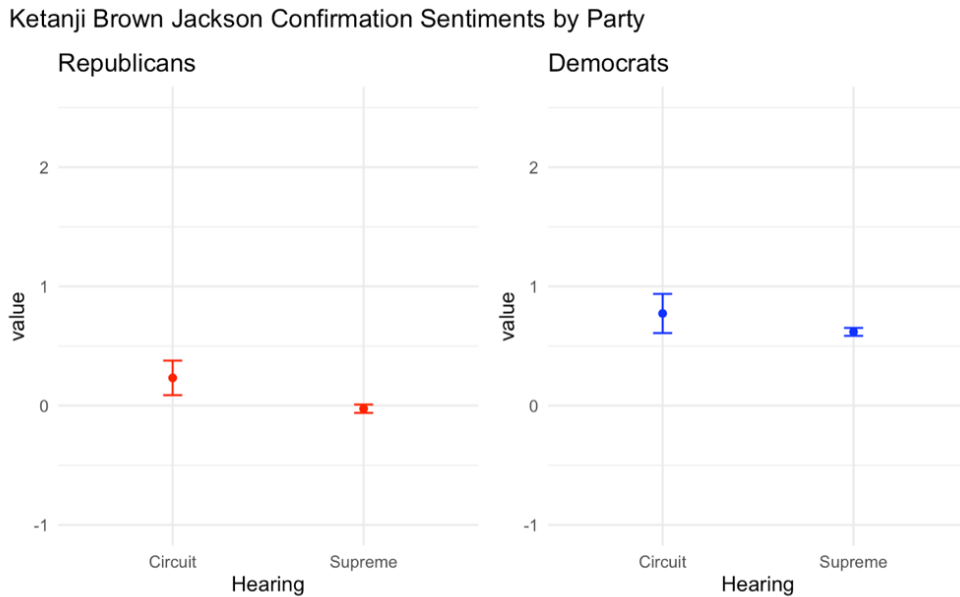


Figure (6)



I applied the same form of analysis to nominees moving from a U.S. Circuit Court to the Supreme Court. However, in this case, I found a downward trend for both supporting and opposing parties. In fact, for the Republicans, there was a statistically significant decrease in sentiment for both Amy Coney Barrett and Ketanji Brown Jackson. Still, these changes in



sentiment are for both parties relatively minimal. To speculate, this could be because the senators had largely made up their minds regarding the nominees, or this could suggest that there is no notable difference in rigor for circuit court judges in general when nominated to the Supreme Court.

As for more specific observations across these results, I found a consistent pattern of Republican senators' not only being positive to their president's nominee but being more positive than their Democratic peers. Interestingly, however, while the Republicans remained positive over both sets of hearings. When observing the Biden nominees (Sarah Merriam, Florence Pan, and Ketanji Brown Jackson), I did not find a consistent pattern of sentiment similar to Republicans' sentiment toward Trump nominees. Instead, in two of the six studied sets of hearings, Republicans were more positive than Democrats toward Biden's nominee. This more positive sentiment was not even reserved to nominees for the U.S. District Court, for Republicans also were more positive in Florence Pan's confirmation hearings for the U.S. Court of Appeals for the D.C. Circuit.

Even more amazing, Democratic sentiment in Florence Pan's U.S. District Court confirmation hearing was actually negative. Yet, this sentiment anomaly reflects more a limitation of using sentiment analysis rather than a rebuke of the candidate. In Florence Pan's hearing for the U.S. District Court, she was asked a question by Senator Dick Durbin of Illinois prefaced with his greatest failure being his lawmaking on crack cocaine. Senator Durbin's negativity was directed largely on himself, and the topic he chose was highly negatively charged. (Pan 2021, pp.45-46). When Senator Durbin's comments are removed from the sentiment score calculation, the overall Democratic party sentiment is positive.

Ultimately, by using sentiment scores as a weak proxy for rigor, I was able to at least address rigor's qualitatively negative element. I found that the overall rigor applied to nominees moving between district and circuit courts decreased for senators who share the party of the president (+0.85 average party sentiment increase). At the same time, the overall rigor applied to these nominees increased for senators of party opposite the president (-1.33 average party sentiment decrease). Finally, after applying these same tests to nominees moving from a circuit court to the Supreme Court, I found a minimal increase in rigor applied to nominees by both parties (a -0.30 average sentiment decrease for the supporting party and a -0.20 average sentiment decrease for the opposing party).

### Collocation Data

To better understand how sentiment toward nominees shifted across the hearings, I collected the top ten collocations of the hearings arranged by their lambda values. Collocations here are word pairings that appear in the same unit of analysis within a text. Lambda values rank “the inflation of the p-values compared to 2a normal distribution” (r-project.org, p.1). By selecting the top ten collocations by lambda value, I could find which unique concepts were (often repeatedly) brought up within the hearings that could demonstrate pushback against or higher standards for nominees.

Figure (7): Amy Coney Barrett (Circuit Court Hearing)

Description: collocations [10 x 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
488	notre dame	12	0	2	14.22498	7.042388
554	southern poverty	6	0	2	13.57126	6.658757
627	28 USC	3	0	2	12.95232	6.256539
628	USC 455	3	0	2	12.95232	6.256539
629	pol pot	3	0	2	12.95232	6.256539
660	crisis network	2	0	2	12.61588	6.014361
661	fallon harvard	2	0	2	12.61588	6.014361
662	klux klan	2	0	2	12.61588	6.014361
663	ku klux	2	0	2	12.61588	6.014361
664	mental health	2	0	2	12.61588	6.014361

Figure (8): Amy Coney Barrett (Supreme Court Hearings)

Description: collocations [50 x 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
2367	stare decisis	50	0	2	17.07735	8.517609
2444	notre dame	42	0	2	16.90494	8.427712
2840	en banc	17	0	2	16.01783	7.952308
3159	FIRST STEP	9	0	2	15.40699	7.604082
3160	planned parenthood	9	0	2	15.40699	7.604082
3419	qui tam	6	0	2	15.02752	7.373296
1943	ruth bader	18	0	2	14.97477	9.078575
3538	cell phones	5	0	2	14.86047	7.266908
3685	sandy hook	4	0	2	14.65981	7.134399
3873	amul thapar	3	0	2	14.40850	6.959962

Figure (9): A. Marvin Quattlebaum Jr. (District Court Hearing)

Description: collocations [10 x 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
16	second panel	2	0	2	9.489864	4.523727
10	ranking member	2	0	2	8.390496	4.790720
12	public opinion	2	0	2	7.878913	4.707914
13	public service	2	0	2	7.878913	4.707914
14	job entail	2	0	2	7.541683	4.601264
11	university south	3	0	2	7.423894	4.725345
4	private lawyer	2	0	2	7.291126	5.536799
3	legal career	3	0	2	6.778026	6.089661
5	school law	2	0	2	6.190240	5.450946
1	south carolina	5	0	2	6.127597	7.374000

Figure (10): A. Marvin Quattlebaum Jr. (Circuit Court Hearing)

Description: collocations [50 x 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
46	harassment assault	2	0	2	10.374272	4.945565
47	institutional safeguards	2	0	2	10.374272	4.945565
48	lifetime appointments	2	0	2	10.374272	4.945565
33	executive power	3	0	2	9.611507	5.593483
35	incredible honor	2	0	2	9.275348	5.296327
36	check balance	2	0	2	9.275348	5.296327
37	little bit	2	0	2	9.275348	5.296327
38	product safety	2	0	2	9.275348	5.296327
39	roe v	2	0	2	9.275348	5.296327
40	traditions institutional	2	0	2	9.275348	5.296327

Figure (11): Ketanji Brown Jackson (Circuit Court Hearing)

Description: collocations [50 x 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
1	available remote	4	0	2	11.922363	5.802106
2	pro bono	3	0	2	11.671168	5.637631
3	residential burglary	3	0	2	11.671168	5.637631
4	similarly situated	3	0	2	11.671168	5.637631
5	fear favor	2	0	2	11.334815	5.403588
6	greater necessary	2	0	2	11.334815	5.403588
7	guantanamo bay	2	0	2	11.334815	5.403588
8	oliver wendell	2	0	2	11.334815	5.403588
9	sat hours	2	0	2	11.334815	5.403588
10	terrorist guantanamo	2	0	2	11.334815	5.403588

Figure (12): Ketanji Brown Jackson (Supreme Court Hearings)

Description: collocations [10 x 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
2972	stare decisis	24	0	2	16.43438	8.175574
3535	constance baker	9	0	2	15.48710	7.643623
3904	martin luther	5	0	2	14.94059	7.306085
3905	miguel estrada	5	0	2	14.94059	7.306085
4233	151 188	3	0	2	14.48862	6.998660
4234	et cetera	3	0	2	14.48862	6.998660
4235	feeding beast	3	0	2	14.48862	6.998660
4236	fred astaire	3	0	2	14.48862	6.998660
4237	los angeles	3	0	2	14.48862	6.998660
4238	qui tam	3	0	2	14.48862	6.998660

Figure (13): Sarah Merriam (District Court Hearing)

Description: collocations [10 × 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
36	2nd circuit	2	0	2	9.579487	4.566483
37	president biden	2	0	2	9.579487	4.566483
38	united states	2	0	2	9.579487	4.566483
21	private practice	3	0	2	8.815964	5.130181
29	alvin thompson	2	0	2	8.480183	4.841980
4	crack cocaine	5	0	2	8.167257	6.633593
34	graduated yale	2	0	2	7.968666	4.761600
35	end day	2	0	2	7.631501	4.656119
28	yale law	4	0	2	7.452982	4.855336
14	put record	2	0	2	7.380879	5.605061

Figure (14): Sarah Merriam (Circuit Court Hearing)

Description: collocations [10 × 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
63	immigration status	2	0	2	10.183200	4.854442
64	labor standards	2	0	2	10.183200	4.854442
65	motion limine	2	0	2	10.183200	4.854442
66	plaintiff's immigration	2	0	2	10.183200	4.854442
67	private practice	2	0	2	10.183200	4.854442
68	repeat players	2	0	2	10.183200	4.854442
69	standards act	2	0	2	10.183200	4.854442
30	around country	5	0	2	9.871532	5.848557
31	ninth amendment	5	0	2	9.871532	5.848557
35	president biden	4	0	2	9.671240	5.689686

Figure (15): Florence Pan (District Court Hearing)

Description: collocations [10 × 6]

	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
14	united states	5	0	2	10.082679	4.929985
31	article III	2	0	2	9.296977	4.431698
32	asian pacific	2	0	2	9.296977	4.431698
33	courtroom receives	2	0	2	9.296977	4.431698
34	lesson learned	2	0	2	9.296977	4.431698
7	crack cocaine	5	0	2	8.983147	5.321712
17	life prison	2	0	2	8.197447	4.680372
18	great state	2	0	2	8.197447	4.680372
19	make sure	2	0	2	8.197447	4.680372
13	district columbia	5	0	2	7.881770	5.082408

Figure (16): Florence Pan (Circuit Court Hearing)

Description: collocations [10 × 6]						
	<b>collocation</b> <chr>	<b>count</b> <int>	<b>count_nested</b> <int>	<b>length</b> <dbl>	<b>lambda</b> <dbl>	<b>z</b> <dbl>
31	united states	7	0	2	10.773630	5.298816
49	deputy chief	3	0	2	10.014000	4.836868
50	look forward	3	0	2	10.014000	4.836868
62	18 four	2	0	2	9.678154	4.613551
63	35 opinions	2	0	2	9.678154	4.613551
64	briefed argued	2	0	2	9.678154	4.613551
65	courts appeal	2	0	2	9.678154	4.613551
66	favorably reported	2	0	2	9.678154	4.613551
67	islander community	2	0	2	9.678154	4.613551
68	lifelong commitment	2	0	2	9.678154	4.613551

Rather than observe patterned behavior across all judicial hearings of a certain level, I mostly found nominee-specific collocations that better explain the context of a particular hearing itself. For instance, in Amy Coney Barrett’s Circuit Court confirmation hearing, two of the top collocations concerned her religious background (“28 USC” and “USC 455” – 12.67, and 12.14, respectively)<sup>7</sup>. A great theme of the lower court hearing was of Democrats questioning Barrett’s ability to dissociate her religion from her ability to adjudicate. Under increased pressure from opponents who claimed that Democrats opposed Barrett because of her religion, Democrats in the Supreme Court hearings walked a “tightrope on Barrett’s faith,” forgoing much discussion on the topic (Jalonick & Schor 2020, p.1). Thus, these religious collocations phase out of the top ten collocations for Amy Coney Barrett’s Supreme Court confirmation hearings.

Some patterns in the collocations did seem to occur, however. Through most nominees’ sets of confirmation hearings, a shift in collocation themes from educational and career

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<sup>7</sup> 28 U.S. Code § 455 concerns the disqualification of a justice, judge, or magistrate judge in part related to “any proceeding in which his impartiality might reasonably be questioned” (Cornell Law School 2023, p.1).

backgrounds to legal issues and theory took shape. For example, three of the top collocations from the district court confirmation hearing of A. Marvin Quattlebaum Jr. were “job entail” (7.54), “university south” (7.42), and “private lawyer” (7.29). A similar finding could be seen in Sarah Merriam’s district court confirmation process where “private practice” (8.82), “graduated yale” (7.97), and “yale law” (7.45) were among the top ten collocations from that hearing. As nominees advanced to be considered for higher courts, the hearings’ collocations became more legal issue-driven. For example, three of the top collocations from A. Marvin Quattlebaum Jr.’s circuit court confirmation hearing were “harassment assault” (10.37), “institutional safeguards” (10.37), and “lifetime appointments” (10.37). Likewise, two of the top collocations in the confirmation hearings for Sarah Merriam’s nomination to the circuit court were “immigration status” (10.18) and “labor standards” (10.18).

There are also specific topics that recur across multiple nominees’ hearings. For instance, abortion related topics became focuses when candidates were nominated to a higher court. In the collocational data for Amy Coney Barrett’s Supreme Court confirmation hearings as well as A. Marvin Quattlebaum Jr.’s circuit court confirmation hearing, “planned parenthood” (15.41) and “roe v” (Wade) (9.28) were both major, recurring concepts in their hearings. It is important to note that both these candidates were appointed by Trump as they were largely pushed back on by the opposing party (Democrats) which expressed worry and concern related to the nominee’s likely positions on the issue of abortion. Furthermore, “stare decisis” can be seen among the top ten collocations of Amy Coney Barrett’ Supreme Court hearings as well as Ketanji Brown Jackson’s Supreme Court hearings. The focus on precedent indicates particularly opponents’ joint concerns related to a nominee’s likelihood of changing longstanding Supreme Court opinions.

Among the other patterns I noticed was a focus on identity. In Ketanji Brown Jackson's confirmation to the Supreme Court, note was paid to her racial background as a black woman as indicated by two of her top collocations. "martin luther" (King Jr.) (14.94) and "constance baker" (15.49). Additionally, in Florence Pan's district court confirmation hearing, a similar focus was placed on her race as an Asian woman as one of the top collocations was "asian pacific" (9.30). Racial identity was largely a focus of the supporting party (Democrats) in these hearings, noting the historic nature of these nominees' confirmations.

Though much of the collocational data on the nominees largely focuses on specific issues that do not provide a pattern of rigor across hearings, this data does still show the two important ways in which pushback and higher standards were exercised the higher the court a candidate was nominated for. First, the higher the court, the higher the standard of focus from baseline résumé facts such as the law school one attended to the nominee's opinions on specific legal concepts. Second, the higher the court, the greater pushback against nominees' possible stance on abortion and precedence.

### Topic Model Data

To further explore the major themes provided in the hearings, I also conducted a structural topic model analysis. Topic models are unsupervised machine learning techniques that cluster related groups of words together among a designated number of topics. A structured topic model posits that there are some number of latent topics that are discussed by the senators. The report of the analysis would be about the probability of a particular topic for each statement.



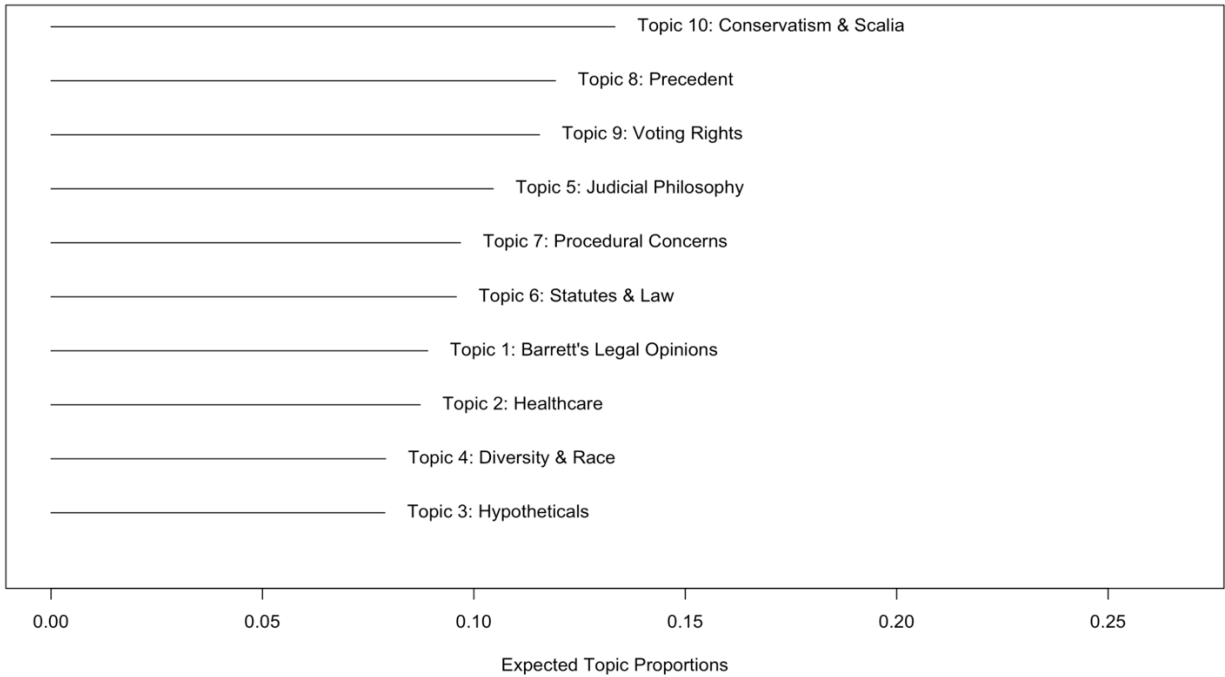
For this thesis, I created a model that produced the top ten topics most descriptive of the hearing sets.<sup>8</sup> When the topics appeared unclear as to what related the terms which were emphasized, I used a findThoughts() function to identify the most typical statements associated with each of the topics and used these to determine what each of the latent variables described. I then plotted the topics to determine the most expected topic proportions within the transcripts. I interpreted these results by intermixing the content analysis of the hearings with the discussion of the topics to clarify the meaning of the topics.

Unfortunately, not all hearings could be topic modeled. Only the Senate Judiciary Committee transcripts for Amy Coney Barrett and Ketanji Brown Jackson Supreme Court hearings had enough content to be topic modeled. With four days of hearings, there was substantially more said within these hearings than in any hearing only partially dedicated to a particular lower court nominee. Still, these topic models provide important explanatory weight for what rigor looks like for nominees to the highest court.

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<sup>8</sup> To see the top words associated with the topics, refer to Appendix.

Figure (17)  
 Top Topics: Amy Coney Barrett Supreme Court Hearings



For instance, over Amy Coney Barrett’s Supreme Court confirmation hearing dates, one of main topics that was discussed by Democrats concerned the likelihood that Barrett would overturn the Affordable Care Act in an upcoming case before the Supreme Court. This would come, as Democrats noted, amid the ongoing Covid-19 pandemic that was wreaking havoc on the American healthcare system in a time before vaccinations had been authorized for general use (Barrett 2020a, pp.5-6). In addition to references to the pandemic, several current events at the time were brought up, including the recent racial reckoning after the death of George Floyd (Barrett 2020b, pp.33-37). Yet these topics (Topics 2 and 4) of general policy matters were less expected topic proportions in the hearings.

Perhaps the most referenced current event and general policy matter of all were the ongoing presidential election and voting rights (Topic 9). Democrats voiced large resistance to Barrett’s confirmation hearings amid the 2020 election. Democrats paid particular note to

supposed Republican hypocrisy by contrasting Barrett’s nomination to Merrick Garland’s unsuccessful nomination just four years prior. Senator Sheldon Whitehouse of Rhode Island even called the swift nature of Barrett’s nomination and confirmation a “mad, slapdash rush” while criticizing Republicans who claimed in 2016 that “you shouldn’t have a nominee appointed to the court after the primary season had begun” (Barrett 2020a, p.17). Meanwhile, Republicans, such as Senators Lindsey Graham and Ted Cruz, tried to defend Barrett’s potential confirmation by arguing that the difference in 2016 was that the president and majority of the Senate were of different parties. Senator Graham put it this way:

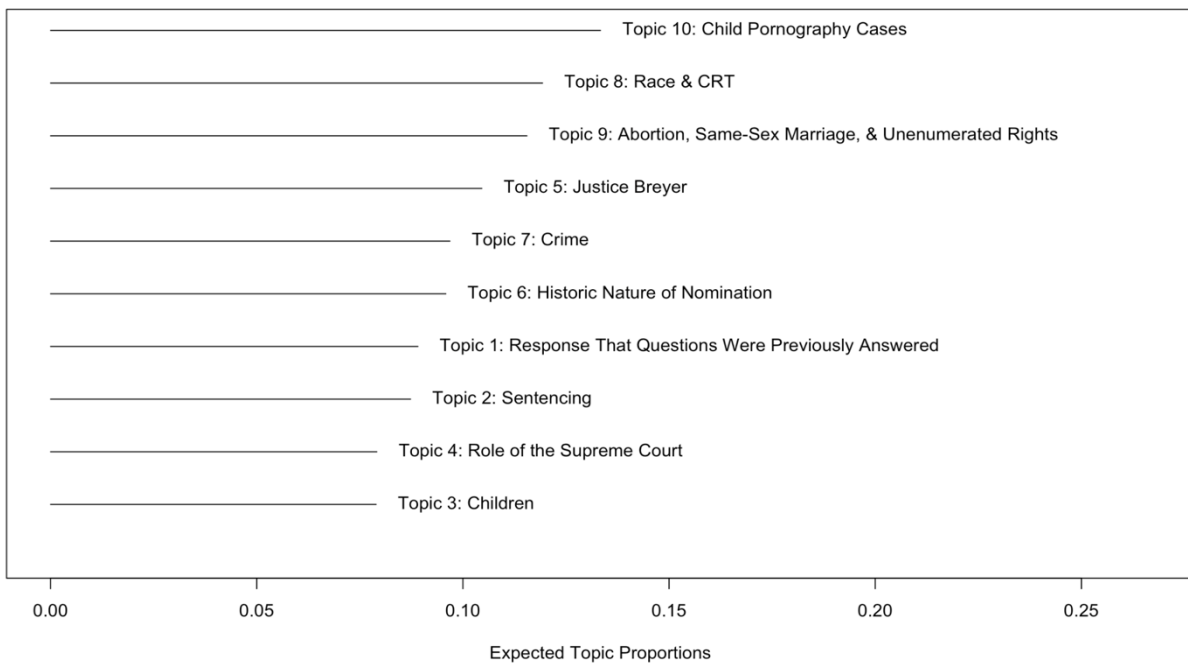
“As to Judge Garland, the opening that occurred with the passing of Justice Scalia was in the early part of an election year. The primary process had just started. And we can talk about history, but here's the history as I understand it. There's never been a situation where you had a president of one party and the Senate of another where the nominee, the replacement, was made in an election year. It's been over 140 years ago. I think there have been 19 vacancies filled in election year. 17 of the 19 were confirmed to the court when the party of the president and the Senate were the same” (Barrett 2021a, p.4).

Such defenses of Barrett were not limited to her very confirmation hearings themselves. For instance, Senator Marsha Blackburn of Tennessee suggested that her Democratic colleagues’ questions regarding Barrett possibly overturning the ACA were disingenuous. Senator Blackburn claimed these questions were just a way of “fear mongering and causing panic” (Barrett 2020b, p.133) Senator Chuck Grassley of Iowa noted that Barrett “never ruled on the Affordable Care Act nor commented on how she would vote...So it’s pointless to speculate” (Barrett 2020b, p.18).

In addition to policy matters, topics related general judicial demeanor (Topics 10, 8, 5, and 3) were the highest expected topic proportions. These topics largely related to how Amy Coney Barrett would interpret the law, respect precedent, and deal with hypothetical cases. Both parties engaged in these topics often from wholly different perspectives. On the one hand, when

noting how Judge Barrett served as a clerk under Justice Antonin Scalia, Senator Cruz noted that the late Supreme Court justice was “one of the greatest justices ever to serve on the Supreme Court” (Barrett 2020a, p.19). On the other hand, Senator Hirono pushed back against this qualification by remembering how Justice Scalia “voted to strike down the ACA” (Barrett 2020a, p.33). Thus, the two parties were in ways speaking from wholly different outlooks with Judge Barrett’s connection to Justice Scalia being seen as a positive to Republicans and a negative to Democrats.

Figure (18)  
Top Topics: Ketanji Brown Jackson Supreme Court Hearings



In Ketanji Brown Jackson’s Supreme Court confirmation hearing dates, particular attention was also paid to the hot-button issues of the time. Yet, in this set of hearings, the roles were reversed: Republicans were in the minority, and Democratic president Joe Biden had nominated the candidate. Reflecting this change in roles, Republican senators tended to focus on more divisive issues and questioned Judge Jackson on these topics. For example, Republican

senators focused on the judge's stance regarding Critical Race Theory (Topic 8). In the second day of the hearings, Senator Cruz emphasized that Georgetown Day School, on which Judge Jackson served on the board, had a curriculum "filled and overflowing with critical race theory" (Jackson 2022b, p.63) Senator Cruz even described how some of "the books that are either assigned or recommended" include *End of Policing* and *Antiracist Baby* (Jackson 2022b, p.63). Senator Blackburn accused Judge Jackson of praising "the 1619 Project, which argues the U.S. is a fundamentally racist country" (Jackson 2022a, p.44) And in the second day of hearings, Senator Blackburn asked Judge Jackson to "provide a definition for the word woman," a kind of "gotcha" question meant to stump those who believe transwoman are women (Jackson 2022b, p.138).

The most expected topic proportion found by my topic model regarded the child pornography cases that Judge Jackson was seen to be too lenient on. Republican senators' questions on the heated topic included Senator Cruz's question regarding the case *United States v. Hess* in which Hess pled guilty to possession of 600 images of pornography. Senator Cruz asked Judge Jackson, while she was a U.S. District Court judge over the case, "why did you choose to sentence Hess to the absolute lowest possible sentence you were allowed to sentence under law?" (Jackson 2022c, p.61). Multiple Republican senators, including Josh Hawley of Missouri, asked similarly related questions, largely suggesting Judge Jackson's sentencing of such sex offenders was egregiously lenient.

Just as Republican senators experienced a role reversal during Judge Jackson's hearings relative to their position in Barrett's, so too did Democratic senators seem to mirror many of the same patterns as their Republican colleagues had modeled in 2020. Now in majority, Democrats spent much of their time allotted for questions defending Judge Jackson from accusations and

insinuations made by Republicans. Senator Chris Coons of Delaware noted that he had not found the 1619 project or critical race theory “cited in any reference to your opinions as a judge” (Jackson 2022b, p.70) Senator Durbin defended Judge Jackson’s sentencing record by saying, “You are in the mainstream of sentencing when it comes to child pornography cases” (Jackson 2022c, p.4) In an impassioned monologue given in the third hearing date, Cory Booker praised the nominee

“But for me, I'm sorry, I – it's hard for me not to look at you and not see my mom, not to see my –my cousins, one of them who had to come here and sit behind you. She had to be -- she had to have your back. I see my ancestors and yours. Nobody's going to steal the joy of that woman in the street, or the calls that I'm getting or the texts.

Nobody's going to steal that joy. You have earned this spot. You are worthy. You are a great American” (Jackson 2022c, p.98)

By analyzing the topics and paying closer attention to the texts of the hearings themselves, one can see how the rigor of the Supreme Court confirmation process often related to pushback against the nominees’ statements, background, and very nomination itself. Members of the party opposing the president would often bring up specific policy issues that often painted the nominee in a negative light. This would then prompt the members of the supporting party to spend a large amount of their allotted time defending the nominee on these very same issues. In the case of the party opposing the president, these specific—often current event related—topics were just another way of increasing the relative rigor toward the nominee. In the case of the party supporting the president, the rigorous topics were often engaged in, but the ways in which these topics were presented by the supporting party often offered a defense against the opposing party.

## Discussion & Analysis

My hypothesis coming into this project was that, despite how polarized the two parties were going into the hearings, both would move to be more rigorous as the nominees they considered were up for higher offices. Though I imagined that the level of rigor would increase at different rates (with senators of the same party of the president still being less rigorous than those of the opposing party), I assumed that the higher the office, the greater the need to scrutinize the nominee's opinions and record.

My results stand in opposition to that hypothesis. For nominees moving from the district court level to the circuit court level, the average sentiment scores of senators of the same party as the president actually grew by +0.85. Across these same levels of the judiciary, the average sentiment scores of senators of the opposing party also fell by -1.33. For nominees moving from the circuit court level to the Supreme Court level, the average sentiment scores of senators of the same party as the president fell by a rather minimal -0.30. However, across these levels of the judiciary, the average sentiment scores of senators of the opposing party also declined (also minimally) by -0.20.

Of course, this sentiment analysis only goes so far and has serious limitations. For instance, sentiment scores do not take into account irony, humor, or various meanings of the same word. Senatorial courtesy may be highly positive when it is in fact more of a neutral element of congressional behavior. Finally, questions addressed to the nominee may have negative elements, but these elements may not reflect a negativity on the part of the senator toward the nominee. However, these sentiment results were substantiated by the results of my other analyses.

As candidates were nominated to higher courts, they faced greater pushback from senators of the party opposing the president. This makes sense, of course, for nominees like A. Marvin Quattlebaum Jr. and Florence Pan. These nominees faced no questions from senators of the opposing party in their confirmation hearings for the U.S. District Court. Yet, this same pattern can be seen for the lower court hearings of Amy Coney Barrett and Sarah Merriam who were also asked questions by more senators of the party of the president than senators of the opposing party. Only in Ketanji Brown Jackson's lower court hearing does an equal number of senators from both parties ask questions to the nominee. Without asking questions or by asking fewer questions, the opposing party cannot offer significant rigorous pushback to a nominee.

As candidates were nominated to higher courts, a greater number of senators asked more rigorous questions to the nominees. My collocational data analysis suggests that the move from lower court nominations to higher nominations corresponds to greater judicial specificity in the hearing texts. Rather than asking more general judicial questions or providing general comments related to the educational or early career background of the nominees, a more thorough investigation of their judicial opinions and philosophies was conducted. For instance, during the U.S. District Court confirmation hearing of Sarah Merriam, only Republican senator, Chuck Grassley, asked the nominee any questions. Senator Grassley asked just two: (1) what did John Rawls's A Theory of Justice mean to her (To which the nominee responded she was unfamiliar with the work and could not answer) and (2) how did "the concept of justice justice's fairness affect [her] job, if at all" (Merriam 2021, p.42) Yet during the U.S. Circuit Court confirmation hearing of Sarah Merriam, Chuck Grassley asked the judge several questions related to political activism, protesting outside of a judge's home, and which justice best reflected her judicial philosophy (Merriam 2022, pp.13-14).



As candidates were nominated to higher courts, they additionally faced more serious attacks. What is peculiar about these attacks is how they often were not leveled during nominees' lower court confirmation hearings even when they could have been. For instance, while child pornography cases was the most expected topic proportion of Ketanji Brown Jackson's Supreme Court hearings, no collocational data suggests that the topic was present during her U.S. Circuit Court hearing. In fact, by actually reading through the actual transcripts, I found no mention of Judge Jackson's sentencing leniency toward child predators. This is despite Republicans questioning the nominee in her confirmation hearing to the U.S. Circuit Court, and this despite these cases having taken place while the nominee was a U.S. District Court judge. Thus, this supposedly damning information existed during her confirmation to the U.S. Circuit Court but was only brought up during her Supreme Court confirmation hearings.

Across the lower court hearings, the confirmational rigor exercised by senators of the same party as the president declined as a candidate moved from a district to a circuit court. This finding stands in contrast to my initial hypothesis that rigor would increase across the board among parties the higher the court. After all, nominees would spend more time before the Senate Judiciary Committee while facing more questions from more senators, and those questions would be more specific.

Yet, as I analyzed the text of the transcripts themselves, I found that when nominees moved from a district to a circuit court, the more senators of the same party as the president would all but say they supported the nominee's confirmation. Both heavily implied and outright statements of support appear to become more common the higher the court. For instance, Richard Blumenthal ended his questioning in Sarah Merriam's circuit court confirmation hearing by saying that he "look[ed] forward to [Sarah Merriam's] speedy confirmation" (Sarah Merriam

2022, p.20). Similar statements were also made Senators Durbin, Hirono, and Coons in Florence Pan's circuit court confirmation hearing. Furthermore, as opposing senators offer more pushback against the nominee, more defenses appear to be made by supporting senators. This intuitively makes sense when one considers that not only are more oppositional senators asking questions to these nominees but more supportive senators are as well.

My proxy rigor variable of sentiment scores does show that rigor applied by the supporting party tends to increase for candidates moving from a circuit court to the Supreme Court. In the Supreme Court hearings, some of the more emotionally charged and rigorous topics engaged in by the opposing party are also entertained by the supporting party. However, the ways in which these topics are presented by the supporting party often offer a defense against the opposing party. Furthermore, as I discovered with my collocational data, more judicially specific/rigorous questions were asked of nominees the higher the court they were nominated to, including the Supreme Court. Opposing party senators were not the only ones to ask more judicially specific questions as supporting party senators engaged in more judicially specific questions as well (perhaps to advertise themselves as being impartial toward the nominee).

Yet, this calculated decrease in sentiment (and understood increase in rigor) is minimal. Indeed, some of the exact same reasons as to why sentiment decreased from the district court hearings to the circuit court hearings still apply. For instance, the first day of Supreme Court confirmation hearings is often devoted to opening statements of senators all but outright say they support the confirmation of the nominee. In Ketanji Brown Jackson's confirmation hearing to be on the Supreme Court, for instance, Senator Dianne Feinstein of California called the nominee "unquestionably qualified for this position" (Jackson 2022a, p.13). Continued defenses were made of nominees during the Supreme Court hearings as well, and supporting party members

recognized the historic natures of both Amy Coney Barrett's and Ketanji Brown Jackson's confirmations.

### **Conclusion & Next Steps**

My thesis challenges the idea that both parties offer increased rigor to judicial nominees the higher the bench they are nominated to. Instead, the changes in rigor applied to judicial nominees correspond to both the party of the senators as well as the specific court for which the candidate is nominated to.

As for next steps, I would like to add more than just the transcripts of the hearings themselves to the current analysis as certain questions are submitted for the record without being asked in committee that may influence senators' sentiment scores. Interestingly, extra consideration must be made for these questions for the record as they are not given before the committee itself and so may not be influenced by the same senatorial incentives. Namely, one could observe if senatorial courtesy and/or grandstanding attempts would be absent, causing metrics such as sentiment scores to dramatically shift. Still, with these additional questions, I would gain a larger body of questions asked to candidates and perhaps broaden my topic model analysis to include all nominees rather than those nominated to the Supreme Court.

In addition, if I were to rerun these tests, I would try to expand out the number of nominees to no longer just observe those who have gone through two levels of judicial confirmation in the same administration. While these conditions are important for comparative analysis at such a small scale as they remove potential confounding variables such as different senators being on the Judiciary Committee and differences in sentiment across levels of

confirmation being due simply to different nominees, these conditions exclude the researcher from performing a scrupulous statistical analysis.

The ultimate significance of this thesis and the continued examination of the findings within is to understand the content of these hearings. In this study, I did not feel as though it is my place to comment on whether forms of rigor were germane to the confirmational process itself. Instead, I attempted to provide a descriptive analysis rather than a normative one. However, if one wishes to further my research, significant room remains in the scholarly literature in determining how substantial forms of rigor applied to judicial nominees are. By answering this question, one can gain better insight into what may be the purpose of the comments and questions made by senators and whether there is a point of such confirmation hearings at all.

## Appendix

### Topic Model Data

#### Amy Coney Barrett

Topic 1 Top Words:

Highest Prob: thank, way, protect, also, fact, everi, opinion  
FREX: fact, also, serv, fair, express, someth, recus  
Lift: mm-hmm, critiqu, stem, fair, erron, stare, recus  
Score: thank, way, protect, also, fact, everi, opinion

Topic 2 Top Words:

Highest Prob: like, barrett, act, mani, ask, yes, issu  
FREX: yes, barrett, act, chairman, mani, job, healthcar  
Lift: yes, maam, smoke, chairman, inform, lucki, barrett  
Score: barrett, act, like, yes, mani, chairman, ask

Topic 3 Top Words:

Highest Prob: can, decid, mean, cant, view, understand, call  
FREX: statut, call, understand, speak, individu, cours, involv  
Lift: trophi, undercut, chopin, jare, statut, hypothet, morn  
Score: can, cant, decid, mean, understand, call, statut

Topic 4 Top Words:

Highest Prob: peopl, make, differ, process, dont, democrat, believ  
FREX: okay, stand, brief, independ, lead, debat, exercis  
Lift: um-hmm, repercuss, okay, cdc, tenth, brief, itthat  
Score: peopl, make, process, okay, differ, believ, democrat

Topic 5 Top Words:

Highest Prob: just, one, question, law, get, decis, take  
FREX: question, take, get, particular, ever, argument, agre  
Lift: gang, thug, climat, clark, question, ever, particular  
Score: just, question, one, law, get, take, decis

Topic 6 Top Words:

Highest Prob: say, hear, come, republican, let, reason, made  
FREX: say, let, hear, religi, much, good, number  
Lift: yep, say, religi, sentenc, ripe, age, let  
Score: say, hear, come, republican, let, much, reason

Topic 7 Top Words:

Highest Prob: judg, will, want, well, that, committe, collegu  
FREX: judg, well, committe, want, record, origin, originalist  
Lift: judg, committe, well, originalist, oath, minut, record  
Score: judg, will, well, want, that, committe, collegu

Topic 8 Top Words:

Highest Prob: senat, suprem, american, said, constitut, now, elect  
FREX: senat, american, elect, preced, tri, got, doesnt  
Lift: liar, senat, american, elect, preced, tri, marriag  
Score: senat, american, suprem, said, constitut, now, elect

Topic 9 Top Words:

Highest Prob: case, think, vote, state, time, law, right  
FREX: vote, lot, realli, might, litig, feder, counti  
Lift: prosper, wax, felon, counti, vote, litig, feloni  
Score: case, think, vote, state, time, law, right

Topic 10 Top Words:

Highest Prob: court, justic, know, right, presid, care, year  
FREX: justic, amend, correct, legal, actual, insur, role  
Lift: flip, justic, amend, correct, census, inaud, motion  
Score: court, justic, know, right, presid, care, look

## Ketanji Brown Jackson

### Topic 1 Top Words:

Highest Prob: senat, suprem, dont, feder, want, defend, chairman  
FREX: senat, judiciari, last, tell, nation, enforc, feder  
Lift: maam, interst, classifi, oppressor, judiciari, withheld, nasti  
Score: senat, suprem, dont, feder, defend, chairman, want

### Topic 2 Top Words:

Highest Prob: law, sentenc, your, let, whether, govern, american  
FREX: whether, democraci, law, note, sentenc, parent, two  
Lift: mic, collegi, social, rapist, bulli, doctrin, fool  
Score: law, sentenc, whether, govern, your, let, american

### Topic 3 Top Words:

Highest Prob: case, question, well, issu, rule, member, child  
FREX: support, didnt, question, recent, belief, theyr, million  
Lift: joke, unborn, implement, sister, jeffri, support, mandat  
Score: case, question, well, issu, rule, member, theyr

### Topic 4 Top Words:

Highest Prob: court, think, say, can, now, judici, differ  
FREX: amend, weve, second, think, possibl, today, differ  
Lift: indirect, print, possibl, de-legitim, militari, etern, spell  
Score: court, think, can, say, now, judici, differ

### Topic 5 Top Words:

Highest Prob: justic, thank, make, talk, that, public, person  
FREX: client, idea, thank, administr, person, communiti, collegu  
Lift: modest, prestigi, terrorist, client, unnam, latter, militia  
Score: thank, make, justic, talk, that, person, public

### Topic 6 Top Words:

Highest Prob: will, congress, year, tri, want, see, unit  
FREX: role, lawyer, month, begin, stop, abil, unit  
Lift: um-hmm, role, near-decad, stop, coverag, begin, inconsist  
Score: will, role, nomin, congress, tri, unit, see

### Topic 7 Top Words:

Highest Prob: know, just, time, ask, decis, crime, yes  
FREX: yes, parti, individu, civil, lot, know, power  
Lift: acclaim, build, conclud, sullivan, lower, religion, ball  
Score: know, time, just, ask, yes, decis, crime

### Topic 8 Top Words:

Highest Prob: work, fact, come, record, import, take, also  
FREX: work, imag, determin, care, fact, record, career  
Lift: ahead, well-reason, imag, backward, monarch, care, undertaken  
Score: work, ahead, fact, come, record, also, determin

### Topic 9 Top Words:

Highest Prob: judg, right, one, peopl, like, jackson, state  
FREX: hope, close, hear, sex, right, abort, jackson  
Lift: disgust, conscious, humbl, hope, grace, qualif, close  
Score: judg, right, peopl, one, like, jackson, hear

### Topic 10 Top Words:

Highest Prob: said, case, youv, committe, thing, understand, view  
FREX: without, done, becom, sinc, organ, matter, critic  
Lift: sustain, without, becom, price, tax, mm-hmm, privileg  
Score: said, youv, case, committe, understand, guidelin, thing

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