UNACCOUNTABLE JUSTICE? THE DECISION MAKING OF MAGISTRATE JUDGES IN THE FEDERAL DISTRICT COURTS*

CHRISTINA L. BOYD AND JACQUELINE M. SIEVERT

Modern federal district courts delegate vast decision-making powers throughout criminal and civil cases to magistrate judges—judicial actors that, unlike other federal judges, serve without an Article III political appointment. Through the lens of principal-agency theory, this study seeks to rectify the relative paucity of systematic work on these actors by using original filing and motion-level district court data to examine magistrates’ decision making empirically. Our results support our expectations that magistrates are often constrained by the preferences of the district judges in and the institutional characteristics of their district while issuing reports and recommendations and serving as assigned judges by the consent of the parties.

In early 2011, the Washington Post argued that increasing case filings, an uptick in judicial retirements, and a high number of judicial vacancies have combined to form the perfect storm of judicial emergency in the lower courts of the federal judiciary (Markon and Murray, 2011). Nowhere are these concerns more salient than in the U.S. District Courts, the 94 trial courts in the federal judicial system, where there are now over 350,000 civil and criminal filings per year (Administrative Office of the U.S. Courts, 2011) and numerous unfilled judgeships. These increasing pressures on federal trial courts are well documented (Galanter, 2004), as are some of the techniques and mechanisms that government officials, lawyers, and scholars have presented to address them (Galanter, 1985; Resnik, 1982). We focus here on one of the most important, understudied, and, perhaps, controversial of these: the advent of the role and use of magistrate judges in federal district courts.

Over forty years ago, Congress authorized the creation of magistrate judges in federal district courts to help these courts more efficiently process cases. Over time, the responsibilities of these judges have increased, so much so that these judges are now disposing of over 1 million civil and criminal matters in district courts (including, e.g., motions and hearings) per year (Administrative Office of the U.S. Courts, 2011). As the quantity of delegation to magistrates increases, however, so too expands the potential for controversy. Unlike traditional district judges, magistrates are not Article

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III federal judges nominated by the president and confirmed by the Senate. This raises a number of important concerns about the decision making of these actors and the political and institutional accountability that they face—concerns that have, until now, gone virtually unaddressed in systematic political science scholarship.

Relying primarily on principal-agency theory, we argue that magistrates are agents to Article III district court judges and, as such, ought to be constrained in their decision making by these principals. To examine this, we use original filing-level civil law data from twenty federal district courts and analyze the decisions of magistrates in two important and very distinct contexts: 1) as a case’s primary assigned judge by the consent of the parties in the case and 2) as an assistant to a case’s assigned district court judge, providing a report and recommendation to the case’s district court judge on the outcome of important motions in the case. Our results support many of our expectations.

By way of preview, in our examination of the direction of case outcomes, we find that magistrates serving as a case’s assigned judge temper their decisions based on the ideological preferences of their district principals. Second, our results reveal that district judges are less likely to adopt the recommendations of magistrates when district judges have relatively low caseloads.

**Theorizing on the Role of Decision Making of Magistrates**

The relationship between a magistrate judge and the district court that he or she serves in can be described as one between an agent and a principal. Principal-agency theory is now widely used to explain hierarchical relationships within political science and the judiciary, including, for example, higher courts to lower courts (Songer, Segal, and Cameron, 1994; Benesh and Martinek, 2002; Randazzo, 2008; George and Yoon, 2003; Corley, 2009), justices to their clerks (Ditslear and Baum, 2001; Black and Boyd, 2011; Peppers, 2006), and courts to other political branches (Lindquist and Haire, 2006). While previous interdisciplinary work on magistrates has likened magistrates to bureaucrats or players in an organization (Seron, 1988) or has relied on proximate selectorate theory to describe their behavior (Carroll, 2004), we believe that principal-agency provides an excellent theoretical underpinning for the unique employment relationship between magistrates and their district court bosses.

**The Necessity of Delegation.** As Moe (1984) famously expounded, “[t]he principal agent model is an analytic expression of the agency relationship, in which one party, the principal, considers entering into a contractual agreement with another, the agent, in the expectation that the agent will subsequently choose actions that produce outcomes desired by the principal.” The resulting formal relationship proceeds with the delegation of tasks and responsibilities and the authorization of the agent to act on behalf of the principal. For principals, such delegation is desirable and necessary because they are “troubled by insufficient time and information” (Porter, 1975:40), and achieving their goals alone would be expensive if not impossible. By authorizing agents to act on their behalf, principals and their organizations can tackle a larger workload and achieve a more efficient processing of their tasks.
Applied here, the district court, via the active judges within the district, is the principal for magistrate judges. The very nature of the evolution of the role of magistrates recognizes the (ever-increasing) need of traditional district judges to delegate tasks to them. In 1968, in light of mounting caseload pressure and an extensive backlog of pending cases, Congress authorized the creation of a new federal judicial officer, the U.S. magistrate, who would assume all the former duties of commissioners and would conduct a wide range of judicial proceedings to expedite the disposition of the civil and criminal caseloads in the U.S. District Courts (Smith, 1990). In the years that followed, the potential powers and role of magistrates continued to grow (Smith, 1990; Carroll, 2004).

While the creation of magistrates came about via legislation, it is up to individual district courts to choose whether, how, and to what degree to use these actors. District judges, frequently and increasingly over time, have delegated large decision-making responsibilities to the magistrates in their courts. The current functions of magistrate judges in federal district courts include assisting and recommending actions to the district judge, conducting civil trials at the consent of the litigants, serving as a special master, and presiding over settlement conferences, ADR, and pretrial hearings. Magistrates can also perform a considerable role in federal criminal cases, including accepting criminal complaints, issuing arrest warrants and summonses, issuing search warrants, and conducting initial-appearance proceedings and detention hearings for criminal defendants (Baker, 2005). Delegation of vast responsibilities like these to magistrates arguably helps our judicial system and, specifically, district judges to process cases effectively and efficiently and ensure that litigants receive substantive and procedural justice. At the same time, however, this raises concerns about the outputs of magistrates within this system. Will these magistrates make decisions that will accord with their district principal? Or, instead, will these magistrates’ decisions be driven by independent and self-interested considerations?

The Tools of Magistrate Control. The concern with any extensive delegation and reliance on an agent is whether the agent will perform consistently with the expectations and preferences of the principal rather than disobeying, shirking, and acting in a self-interested fashion. Moe warns of the dangers of this implicit moral hazard: “there is no guarantee that the agent, once hired, will in fact choose to pursue the principal’s best interests or to do so efficiently. The agent has his own interests at heart” (Moe, 1984:756). Simply put, due to the information and interest asymmetries between the actors, delegation to agents puts principals’ preferred outcomes at risk.

To respond to this concern, the principal-agency model presents a principal with several methods to help prevent agents from engaging in undesirable behavior. Such tools are designed to “mitigate the asymmetry [between principal and agent] and thus minimize the problems of adverse selection and moral hazard” (Moe, 1984:766). Examples include ex ante control mechanisms, such as the screening and selection of agents, sanctions, incentives, and monitoring.

The screening and selection of agents is often the most direct and effective mechanism of agent control for principals (Van Houten, 2009). Not all principals
have the ability to select their agents, something that is particularly true in many judicial applications of this theory. When they do, however, careful agent selection, bolstered by signals from potential agents, presents an opportunity for principals to control the preferences of their agents, control their outputs, and limit or altogether remove the need for regular oversight (Calvert, 1989; Spence, 1974). While hiring that is careful and avoids adverse selection requires a substantial principal investment (Kiewiet and McCubbins, 1991; Miller and Moe, 1986), “both sides are better off if principals are able to identify those individuals who possess the appropriate talents, skills, and other personal characteristics prior to the establishment of the principal/agent relationship” (Kiewiet and McCubbins, 1991).

Sanctions and the threat of sanctions can also serve as an agent-control mechanism. Potential sanctions for shirking agents include, for example, termination, demotion, and lack of reappointment. While sanctions can be costly for some principals in some circumstances (Kiewiet and McCubbins, 1991), if the threat of them being carried out is credible, agents should be more likely to behave according to the interests of their principals. In addition, principals can use positive incentives, such as promotions, reputation building, and the promise of career advancement to induce agent compliance (Kiewiet and McCubbins, 1991; Black and Boyd, 2011; Peppers, 2006).

Where agent screening is limited and the threat of sanctions or promise of incentives are weak constraints on agent behavior, principals can turn to active monitoring to reduce information asymmetries and encourage agents to not act in their own self-interest. Monitoring through investigations, regular oversight, and reporting requirements can be difficult and costly to carry out and, particularly in the face of principals’ need to delegate to begin with, is often ineffective (Kiewiet and McCubbins, 1991). To overcome this inefficiency, principals can turn to fire-alarm oversight (McCubbins and Schwartz, 1984), where they depend on reliable third-party signals to indicate the presence of inappropriate agent activity.

How does this apply to magistrate judges and their district court principal? Unlike most principal-agency applications in a judicial setting, the principal here controls agent selection and can use this process to recruit trustworthy and like-minded magistrate agents. While district judges are Article III judges nominated by the president, confirmed by the Senate, and protected by lifetime tenure, magistrate judges are appointed by the district court judges in the district in which they will serve to an eight-year term. Potential magistrate judges are nominated through a selection panel consisting of lawyers and at least two nonlawyers in the community (Judicial Information Series No. 2, 2002). The selection panel (whose composition is voted on by the district court judges) evaluates the qualifications of the applicants and submits a list of five potential candidates to the court for consideration. The active district judges in the district then select their magistrate by a majority vote. Through this hiring process, district court judges can vet their agents for the qualities, demeanor, and
experience that will make them a good fit within the district. Because this selection process is inevitably a relative rare one in a district court, district judges are likely to be all the more able to devote the time necessary to be satisfied that their vote is carefully made.

Similarly strong are the sanctioning controls of district courts over magistrates. Like civil servants described by McCubbins, Noll, and Weingast (1987), magistrates can be fired (by majority vote) if they “stray too far” (p. 248) from the preferences of their district principals via, for example, incompetency, neglect of duty, or physical or mental disability (Judicial Information Series No. 2, 2002). Short of firing them, district judges can also relegate (temporarily or permanently) noncomplying magistrates to the district’s most menial and administrative tasks including, for example, prisoner litigation, bail review, and petty offenses. This is possible because of the vast discretion in the degree and content of delegation that district judges have when operating as a supervising body. With the expiration of a magistrate’s eight-year term, district judges can (and do) choose to not reappoint a magistrate they are not pleased with for another term.

Various monitoring mechanisms enable district courts to gain the information necessary to determine when removing delegated authority from a magistrate, or even sanctioning them, is appropriate. The potential for active district court monitoring of magistrate judge decisions and activity exist in nearly every context of magistrate activity. As noted above, many magistrate responsibilities place them in a role of formally or informally assisting a district judge, including through conducting pretrial hearings, ruling on preliminary case motions, and serving as a third-party neutral in settlement conferences. In other scenarios, like initial criminal proceedings involving arrest and search warrants, appearances, detention, and criminal complaints, magistrates hold temporary authority that can be swiftly removed, serve under the watchful eye of the district’s chief judge, and can have their decisions reviewed and reversed by the district judge that is assigned the case if it moves forward toward trial.

District judges also have an array of positive incentives available to induce desired magistrate compliance. These include, for example, the potential for reappointment, assignment to prime district responsibilities, and the development of a generally favorable reputation in the district that could lead to greater future political and judicial opportunities, including appointment as an Article III judge (and the higher status and salary benefits that such an appointment brings).

While specific details on the selection, monitoring, and sanctioning of magistrate judges rarely emerge from district court insiders, some anecdotal evidence preliminarily confirms our theory about this principal-agent relationship. For example, in 2008 South Carolina’s federal district court selected to not reappoint Magistrate Judge George Kosko following allegations that he made disparaging comments, including toward women and minorities, while serving on the bench (Smith, 2008). Interviews
conducted by Christopher Smith (1990) revealed that some district courts, rather than reject the reappointment applications of magistrates whose performance was not satisfactory, would send signals to those individuals encouraging them to retire at the conclusion of their term. In 2006, a chief district judge in the 11th Circuit was required to take action against a magistrate judge in his district after the magistrate had been found to have “engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts” (Administrative Office of the U.S. Courts, 2006:Table S-22). Unfortunately, specific details on the nature of the magistrate’s offending conduct or the resulting sanction were not released to the public. Smith (1990) also found evidence that magistrate judges recognized the presence of district court monitoring, and, more important, felt constrained by it. One former magistrate judge interviewed said, “I just did not feel like a judicial officer, because the judges control everything, tell you how to do things, and tell you what to decide. There is often no room to make a judicial decision, even when the judge’s orders will lead to an unjust result” (Smith, 1990:73).

On the more positive, incentive-related side of our theory, magistrates across districts are regularly reappointed to their positions after their initial eight-year terms expire. We also know of one magistrate judge, Wallace Capel, who had developed such a good reputation for his work as a magistrate judge in the Eastern District of Michigan from 1999-2006 that, in 2006, he was appointed as a magistrate in the Middle District of Alabama (Almanac of the Federal Judiciary, 2011). Developing strong judicial reputations have also been valuable for many former magistrates who have gone on to receive appointments as Article III district judges. Speaking of Judge Leslie Kobayashi, a two-term magistrate judge and President Obama’s nominee in 2010 for a district court judgeship in Hawaii, Senator Akaka said that, as a magistrate judge, she was “an outstanding and well-respected jurist known for her fairness and timely rulings” (Inouye, 2010). Kobayashi was successfully confirmed in December 2010.

Overall, these examples confirm the nature, strength, and variety of the selection, monitoring, and sanctioning tools available to district courts over magistrate judges. They lead us to believe in the appropriateness of the application of principal-agent theory to the district court-magistrate relationship, particularly when the theory is viewed in light of its other, well-regarded judicial branch applications, many of which lack principals holding selection or sanctioning powers. We believe that these types of controls available to district courts over their magistrates, when viewed together, should enable them to select good agents and, when necessary, sanction and give them incentives to behave according to the district’s best interests. The strength of this resulting principal-agent relationship should greatly diminish the need for frequent monitoring of magistrate activities and decisions. As we describe in further detail below, if and when the need for direct oversight arises, district judges can turn to a third party—litigants—for fire-alarm-style signals.
DATA

For purposes of this study, we empirically analyze magistrate decision making within the civil case context in two specific areas: 1) service as a case’s sole assigned judge by the consent of the parties in the case and 2) the making of reports and recommendations on motion dispositions to assigned district court judges. While these activities represent only a portion of the workload of magistrate judges, they are some of the most salient and outcome-specific activities that occur in district courts and, as such, provide an excellent starting point for systematically examining the role of magistrates. In addition, as we describe in more detail below, the two areas of focus here are very different from each other in terms of the underlying work done by magistrates, yet each provides an opportunity to test principal-agency theory in action.

To study this area, we rely on an original database of civil cases terminated from 2000 to 2006 in 20 of the 94 federal district courts. These 20 districts were selected because their chief judges provided PACER (“Public Access to Court Electronic Resources”) fee exemptions for collecting and studying the case materials from their courts\(^1\) and, together, they provide circuit, partisanship, size, caseload, and geographic diversity (see Table 1). These 20 districts provide representation for 11 of the 12 Circuit Courts (excluding only the D.C. Circuit); range in size from very small (2 active judges), to medium (7 active judges), to very large (28 active judges); are diverse in terms of the partisanship of their sitting, active judges (as measured by the party of their appointing president); and vary in the number of criminal and civil filings per judge (from a low of 301 per judge in the Northern District of Oklahoma to a high of 724 per judge in the Eastern District of Louisiana). The result of this multifaceted district diversity in the data is that these districts, together, are likely to serve as good representatives of district courts more generally.

\(^1\) The expense of relying on PACER to do docket-level research on federal courts makes it impractical to make a broad, empirical study of all districts. Like this study, others have drawn their sample from districts where PACER fee exemptions were available (Coleman, 2008, 1 district; Kourlis and Gagel, 2008, 8 districts). Others, while not selecting their sample solely because of PACER fee waivers, have focused on a small number of districts in their non-opinion-based empirical study of district courts, but have made a number of generalizations from their findings to the broader study of district courts (e.g., Siegelman and Donohue, 1990, 1 district, small analysis with 7 districts; Rowland and Carp, 1996, 2 districts; Olson, 1992, 1 district). One may question whether selecting the 20 districts for study here based on the willingness of a district’s chief judge to grant a fee exemption amounts to a systematic selection bias related to magistrate judges. We believe, for many reasons, that it does not. First, the request for PACER fee exemptions, made in 2008, centered on a large-scale study of district courts, termination methods of cases, and the interaction between district courts and their hierarchical superiors, and as such, was not solely focused on magistrate judges. Second, some districts declined to provide fee exemptions because of a standing policy to decline all such requests, no matter the topic of study or identity of the requester. Third, other districts beyond the 20 studied here also provided fee exemptions. Because of practical research considerations, along with time and use limitations that certain districts placed on fee-exemption retrieved data, this study settled on the 20 districts included in the data here. Finally, the chief judges responding affirmatively to fee exemption requests in 2008 were relatively representative of district court chief judges more generally (see Table 1). Chiefs appointed by Presidents Ronald Reagan, George H. W. Bush, Bill Clinton, and George W. Bush are all included, although the overall percentage of appointed chiefs skews somewhat more Republican than the overall districts at that time. Still, what is more important here is that there is no reason to believe that the varying identities of these chiefs and the way that their districts were selected for inclusion in this study on magistrate judges should systematically bias its conclusions or its ability to generalize from 20 districts to all 94.
Table 1
The 20 Federal District Courts, Arranged by Their Circuit, Included in the Study

<table>
<thead>
<tr>
<th>District</th>
<th>Circuit</th>
<th>Chief Judge Appt. President</th>
<th>Filings</th>
<th>Filings Per Active Judge</th>
<th>Active Judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rhode Island</td>
<td>1</td>
<td>Clinton</td>
<td>1,387</td>
<td>463</td>
<td>3</td>
</tr>
<tr>
<td>New York (Southern)</td>
<td>2</td>
<td>Reagan</td>
<td>13,703</td>
<td>490</td>
<td>28</td>
</tr>
<tr>
<td>New York (Eastern)</td>
<td>2</td>
<td>Reagan</td>
<td>6,547</td>
<td>436</td>
<td>15</td>
</tr>
<tr>
<td>Pennsylvania (Middle)</td>
<td>3</td>
<td>Clinton</td>
<td>3,021</td>
<td>504</td>
<td>6</td>
</tr>
<tr>
<td>Maryland</td>
<td>4</td>
<td>Bush, G.H.W.</td>
<td>4,127</td>
<td>412</td>
<td>10</td>
</tr>
<tr>
<td>Virginia (Eastern)</td>
<td>4</td>
<td>Reagan</td>
<td>4,985</td>
<td>453</td>
<td>11</td>
</tr>
<tr>
<td>Texas (Northern)</td>
<td>5</td>
<td>Reagan</td>
<td>5,076</td>
<td>423</td>
<td>12</td>
</tr>
<tr>
<td>Louisiana (Eastern)</td>
<td>5</td>
<td>Clinton</td>
<td>8,690</td>
<td>724</td>
<td>12</td>
</tr>
<tr>
<td>Ohio (Northern)</td>
<td>6</td>
<td>Clinton</td>
<td>4,895</td>
<td>408</td>
<td>12</td>
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<tr>
<td>Michigan (Eastern)</td>
<td>6</td>
<td>Reagan</td>
<td>6,159</td>
<td>411</td>
<td>15</td>
</tr>
<tr>
<td>Indiana (Northern)</td>
<td>7</td>
<td>Reagan</td>
<td>1,975</td>
<td>394</td>
<td>5</td>
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<tr>
<td>South Dakota</td>
<td>8</td>
<td>Clinton</td>
<td>908</td>
<td>303</td>
<td>3</td>
</tr>
<tr>
<td>Iowa (Northern)</td>
<td>8</td>
<td>Bush, G.W.</td>
<td>1,210</td>
<td>606</td>
<td>2</td>
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<tr>
<td>California (Central)</td>
<td>9</td>
<td>Reagan</td>
<td>15,144</td>
<td>540</td>
<td>28</td>
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<tr>
<td>Colorado</td>
<td>10</td>
<td>Bush, G.H.W.</td>
<td>3,487</td>
<td>498</td>
<td>7</td>
</tr>
<tr>
<td>Kansas</td>
<td>10</td>
<td>Bush, G.H.W.</td>
<td>2,187</td>
<td>365</td>
<td>6</td>
</tr>
<tr>
<td>Oklahoma (Northern)</td>
<td>10</td>
<td>Bush, G.W.</td>
<td>1,052</td>
<td>301</td>
<td>3.5</td>
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<tr>
<td>Florida (Middle)</td>
<td>11</td>
<td>Reagan</td>
<td>9,355</td>
<td>623</td>
<td>15</td>
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<tr>
<td>Florida (Northern)</td>
<td>11</td>
<td>Clinton</td>
<td>2,079</td>
<td>520</td>
<td>4</td>
</tr>
<tr>
<td>Georgia (Northern)</td>
<td>11</td>
<td>Reagan</td>
<td>5,274</td>
<td>480</td>
<td>11</td>
</tr>
</tbody>
</table>

All 94 Districts 59% Republican 3,723/District 7.2/District 678

Note: Unless otherwise noted, data are measured in 2008. District % Republican indicates the percent of active judges serving at any point in 2006 in a district that were appointed by a Republican president.


These data are derived from the Federal Judicial Center’s (FJC) Integrated Databases and a docket-level analysis from materials gathered from PACER. They consist of three major civil issue areas: personal injury disputes, civil rights cases, and business-related cases. For the starting database in this study, we have drawn a stratified random sample of 250 cases per district. Each of our two models described below draw from this database for their underlying analyses.

THE VOTES OF MAGISTRATES

We begin first with an analysis of magistrate voting behavior in cases where they serve as the assigned judge. Since much of the judicial decision-making literature focuses on

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2 We use nature-of-suit (NOS) codes, which are selected by the plaintiff’s attorney at filing, to identify our issue areas. Our NOS codes include civil rights cases (440, 442, 443, 444), personal injury cases (310, 320, 340, 350, 360), and business-related cases (190, 820, 830, 840).
the merits voting of judges and the ideological direction thereof, it makes sense that we begin by examining the behavior of magistrates in this light. The language in 28 U.S.C. § 636 (c) indicates that magistrate judges may at times serve as the only official, assigned judges in a case:

Upon the consent of the parties, a full-time United States magistrate judge or a part-time United States magistrate judge who serves as a full-time judicial officer may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he serves.

While district court judges presiding over cases are likely to take into consideration a number of legal, hierarchical, and political concerns, they are not likely to be heavily constrained by the preferences of their colleagues, especially when it comes to the ideological direction of their decision making. This reflects the hierarchical nature of our judicial system, the internal independence of the judiciary, and the noncollegial decision-making environment of district court judges.3

When serving as a consent-assigned judge, we expect that, because of selection and sanctioning constraints and the repeat, long-term game that they are playing in their district, magistrates will continue to serve as agents of their district judge principals. This means, among other things, altering their decision making and case guidance to accord with what they believe to be the preferences of their district principals, rather than making decisions based on their sincere, independence-minded preferences.

**Expectations and Variables.** This area provides a great opportunity to evaluate our principal-agency expectations since we can test whether magistrate judges, serving as assigned judges, decide cases differently than their district court principals. If principal-agency is truly in operation for magistrates, then we will see magistrates deciding cases in a way that clearly is constrained by the overall preferences of the Article III district judges, while similarly situated district court judges will make decisions relatively independent of that district force.

To carry out this analysis, we examine whether district court cases conclude with a conservative or liberal outcome, something that is coded, following conventions from other federal court empirical studies, based on the type of case, its primary issue area, and the winner (Spaeth, 2005). Cases in our database where no clear coding could be made on these dimensions, such as those that settled, were dropped from the analysis. Our dependent variable is dichotomous in nature, with 0 = conservative and 1 = liberal.

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3 Despite this institutional environment, district judges may, through socialization, collegiality, and contact with their colleagues, be informally constrained by their colleagues (Carp and Wheeler, 1972). Even when this exists, however, we expect its pull to be far less strong and predictable than it would be for magistrates serving as agents to district judges.
Our independent variable of interest focuses on measuring the pull of the principal-agency relationship. To do this, we interact the type of judge assigned to the case (magistrate or district court judge) with the mean ideology score of the active judges in the district. Our expectation is that magistrates will be constrained by this district ideology and will conform their decision making in cases toward those managerial preferences. As a district’s central tendency becomes more conservative, magistrate judges should be less likely to have their cases terminate in a liberal fashion, and vice versa. However, given that traditional district judges are not principals to each other, this constraining relationship should not be present for them while making decisions.

The *Magistrate (Consent) Assigned* variable is simply a dichotomous variable, with values of 1 for magistrates assigned to the case by party consent, and 0 for cases with a traditional Article III judge presiding. This variable is coded from the case’s docket. Within our outcome data, approximately 5 percent of the cases have a magistrate serving as assigned judge by party consent.

*District Ideology* is the average ideology score for the active district judges at the time at that a district case is terminated. The underlying ideology measurement for each judge ranges from -1 (liberal) to 1 (conservative) and is based on Judicial Common Space (JCS) scores using the methodology described in Giles, Hettinger, and Peppers (2001) and Epstein et al. (2007). The ideology scores, derived from the Poole and Rosenthal NOMINATE Common Space scores, account for the nomination and confirmation process, including the norm of senatorial courtesy that operates within lower-court judicial selection. The average district ideology in this analysis is -0.005.

Based on the extensive research findings that judge ideology is an excellent predictor for a decision’s ideological direction (Segal and Spaeth, 2002; Hettinger, Lindquist, and Martinek, 2004; Rowland and Carp, 1996), we control for the ideology of the case’s assigned judge in our data (*District Judge Ideology*). For traditional district judges, this variable is simply measured as their JCS score (see above). For magistrate judges, however, since they did not receive an appointment through the same political process, no JCS or comparable ideological measure exists. Instead, to code ideology for these judges, we took the average (active) district judge ideology score for the year that the magistrate judge was first appointed to the district (Boyd and Hoffman, 2010).  

Since district court decisions are subject to potential review (and reversal) from the courts of appeals, we also control for the median ideology of a district’s hierarchically superior circuit court in the year of a case’s termination. Based on the findings of Randazzo (2008), we expect that assigned judges in district courts will consider and

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4 While this measure of magistrate ideology is not as precise as we would like, it does reflect our (as well as external reviewers’) desire to incorporate some measure of ideology into an outcome model. It is worth noting that estimating our model without this ideology measure does not change the results for our key variables. Future work will, we hope, be able to use ideal point estimation, bridging techniques (from magistrates serving across districts or being appointed to serve as district judges), or both to provide more-precise ideology measures for magistrates, something that is not likely to happen until much more district court data, across years and districts, are collected.
Table 2
Logistic Regression Results for the Outcome Direction in District Court Cases

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>Standard Error</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Ideology</td>
<td>0.541</td>
<td>(0.81)</td>
</tr>
<tr>
<td>Magistrate (Consent) Assigned</td>
<td>1.032*</td>
<td>(0.41)</td>
</tr>
<tr>
<td>District Ideology × Magistrate Assigned</td>
<td>-1.881</td>
<td>(2.25)</td>
</tr>
<tr>
<td>District Judge Ideology</td>
<td>0.441</td>
<td>(0.28)</td>
</tr>
<tr>
<td>Circuit Court Ideology</td>
<td>-0.724**</td>
<td>(0.39)</td>
</tr>
<tr>
<td>Business Case</td>
<td>1.674*</td>
<td>(0.26)</td>
</tr>
<tr>
<td>Civil Rights Case</td>
<td>-0.916*</td>
<td>(0.30)</td>
</tr>
<tr>
<td>Constant</td>
<td>-2.047*</td>
<td>(0.23)</td>
</tr>
<tr>
<td>Log Likelihood</td>
<td>-651.816</td>
<td></td>
</tr>
<tr>
<td>Observations</td>
<td>1,808</td>
<td></td>
</tr>
</tbody>
</table>

Note: Statistical significance is represented with * (p < 0.05, two-tailed) and ** (p < 0.10, two-tailed), and robust standard errors are reported in parentheses. Personal Injury Case is the baseline issue area.

moderate their voting behavior based on the general ideological preferences of their circuit. These are measured using the JCS scores, obtained from Epstein et al. (2007).

Finally, we control for the general issue area of the case. The issue area of a case is likely to affect its baseline probability of being decided in a liberal direction (Rowland and Carp, 1996). As noted above, our data include cases in three general issue areas: civil rights, business, and personal injury torts.

**Results.** The results of our estimated logistic regression of whether the district court case has a liberal outcome are reported in Table 2. The data examined here include 1,808 cases that amount to all nonsettled, nonprocedural dismissals from the above sample.

Recall that our primary expectation from this model is that when magistrates are serving as the assigned judge in a case, they will be constrained by the preferences of the district judges, and that will affect the direction of the case outcome. To capture this conditional relationship, our covariate of interest is the interaction of the mean ideology of the district judges and the status of the assigned judge in the case (magistrate or district judge). Because of the nature of interactive terms in logistic regressions, we must turn to a plot of the relationship to understand its statistical effect on whether a case will be decided in a liberal direction. We do this in Figure 1, where we depict the predicted probability of a case receiving a liberal outcome in each of our
Based on whether the assigned judge in the case is a district judge or a magistrate judge serving by consent, the mean ideological score in the district, and the case’s issue area. Other variables are held at the mean and modal values. Ninety percent confidence intervals are depicted around the mean probabilities in the center and right-hand panels of the figures.

three broad issue areas. The left-hand column figures illustrate the mean predicted probabilities for each the three issue areas for magistrates and district judges as the assigned judge in a case, while the center and right-hand columns plot the 90 percent confidence intervals around those predictions.

As we can see from the plots, there is much about this statistical relationship that is meaningful. As expected, when a magistrate is, by the consent of the parties, the
(only) assigned judge in the case, the mean ideology of the magistrate’s district can have a constraining effect. Magistrates serving as the assigned judge by the consent of the parties in a liberal district have a predicted probability of deciding a civil rights case (plotted in the figure’s top panel) in a liberal direction of over 0.18. Conversely, magistrates serving in a conservative district decide civil rights cases liberally with a likelihood of approximately 0.07. Similar patterns of difference exist for business and personal injury tort cases, although the baseline likelihood of a liberal outcome differs in each (see Figure 1). For business cases, the probability of a liberal outcome moves from 0.75 (liberal district) all the way down to below 0.50 (conservative district); for personal injury cases, the change is from 0.35 in a liberal district to just over 0.15 in a conservative one.

We anticipated above that if principal-agency is the operating theoretical constraint, only magistrate judges will be affected in their decision making by the mean ideological pull of the assigned district judges. The dashed lines in Figure 1, which plot the predicted probability that a district judge will decide a case in a liberal direction, generally support this. District court judges are, as predicted, relatively unaffected by the political preferences of their Article III colleagues. The predicted probability of these district court judges deciding their cases liberally is subject to much less change based on the mean district ideology.

It is important to note that, as is clear from the size of the confidence intervals in Figure 1, many of these estimates have a relatively high level of uncertainty. This is particularly true when examining ideologically extreme districts, with either very liberal or very conservative average ideologies, where our sample sizes are quite small. Within our estimates, the 90 percent confidence intervals on the district judge and magistrate judge predictions overlap at these margins, indicating that there is not a statistically significant difference between the estimates of liberal decisions for these two types of judges. This is something that we would expect in a conservative-leaning district in our illustrations, but not in a liberal one (due to the unconstrained district judges). There is no confidence interval overlap, and thus there is a statistically significant difference between district judges’ and magistrate judges’ decision making, in districts ranging from about -0.2 to 0.05 in overall ideology—i.e., moderately liberal and moderate districts. It is in these districts that we can see that magistrate judges are significantly more likely than district judges to decide cases in a liberal direction in a statistically meaningful way. For example, in a district with a mean ideology of -0.20 (moderately liberal), magistrate judges have about a 0.35 higher probability of deciding their assigned business-related cases in a liberal direction than do similarly situated district judges. These results, when taken together, provide us modest support that magistrate judges, no matter the issue area in the case before them, alter their decision making to account for their perceptions of their bosses’ preferences.

Our control variables also behave largely as expected. The ideological preferences of the reviewing circuit court serve to influence the decision making of the assigned judges in the district courts. As a hierarchically superior circuit’s mean
ideology grows more conservative, the assigned decision makers in the district court, whether Article III or magistrate, become less likely to decide their case in a liberal fashion. However, judge ideology just misses statistical significance, with a p-value of 0.11.

REPORTS AND RECOMMENDATIONS

We turn next to an analysis of the delegation of decision-making authority to magistrates by district judges in one its most formal and traditional forms. Although magistrate judges will sometimes be the primary judges in a case like described in the analysis above, a more common role for these actors is to serve as a secondary judicial actor in a case by formally assisting the assigned Article III district judge. Built into the laws governing magistrate judges is a provision that permits district court judges to delegate important pretermination decision making to magistrates while retaining supervision and final decision-making authority. Pursuant to 28 U.S.C. § 636 (b), a district judge may:

designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court.

Acting under this clause, magistrate judges issue preliminary rulings on important, and at times legally complex, pretrial dispositive motions, such as motions to dismiss, motions regarding discovery, and motions for summary judgment. Trial court litigation is complex and dynamic (Kritzer, 1986), and a judge has many open cases on his docket at once, meaning that there can be tremendous, and at times conflicting, demands on an assigned judge’s time. Because of this, this pretrial decision-making delegation to magistrate judges is likely essential for many district court judges.

The magistrate’s recommendation is, at least in theory, just that—a recommendation, accompanied by a written report and legal reasoning, about the outcome of the motion before him or her. As a check on the decisions that magistrate judges are making in this pretrial phase of a case, the assigned Article III district judge reviews the recommendation, after which he may decide to adopt it, reject it, or modify it in part or in its entirety. In practice, though, nearly all magistrate recommendations are adopted by the assigned district judge. But nearly all is not all. As we argue below, legal signals motivate district judges to abandon unfettered delegation and engage in a hard, independent review of magistrate recommendations in certain situations. When this scenario is combined with ideological incompatibility between a case’s assigned district judge and the rest of his district colleagues, we expect to see a substantial increase in the likelihood of non-adoptions of the magistrate’s recommendation.
**Expectations and Variables.** Reports and recommendations, along with their subsequent review, provide an excellent arena for us to formally test the effectiveness of magistrates as agents (or district judges as principals). Studying this report and recommendation process in a systematic, quantitative fashion, however, is no easy task. For each of the cases in our original database, we relied on the case docket as the source for the presence and details of reports and recommendations. Such a focus on dockets, rather than on, for example, published opinions, was necessary since rarely will something like a magistrate’s report and recommendation lead to a published opinion. By definition, a report and recommendation is not the final district court judicial disposition on a particular motion. With the case dockets in hand, we used text-analysis technology to search for reports and recommendations in the case dockets, and then we further hand coded relevant characteristics about the underlying motion, magistrate, district judge, and other case attributes.

Our independent variables of interest concern the relationship between magistrates and their district principals, both ideologically and institutionally, as well as legal standards that modify the operation of this relationship. While a district court serves as the principal for magistrates, the active judges on this court are not all like-minded. Magistrates are likely to recognize this and tailor their behavior toward the centralized preferences of the district rather than any outlier judges. To extend the earlier analogy about the principal-agency relationship between the Supreme Court and the courts of appeals, on most issues, we would expect a compliance-focused appellate court to be much more likely to target the center of the Court—today, Justice Kennedy—than an ideological outlier like Justice Ginsburg. In practice, then, we expect that magistrates that perceive the assigned judge to hold inconsistent preferences from the rest of the district judges will be more likely to make recommendations that will be contrary to the preferences of the assigned judge. To capture this, we take the absolute difference between the mean ideology of the district and the ideology of the case’s assigned Article III district court judge. Both of these measures were derived from the JCS scores described above.

While magistrate judges are likely to keep in mind their district judge principals, and their preferences, throughout the delegated decision-making process, the reverse is not likely to always be true. We anticipate that district judges will be uniformly predisposed to adopt magistrate’s recommendations (Seron, 1985), even when the district judge is an ideological outlier in his district (and, thus, the primary principals to the magistrate assisting him or her on a case). This deference to magistrates is likely a product of district judges’ limited time to conduct a thorough secondary review of every case motion, their trust of the delegation system and the restraint of magistrates within that system, and their understanding that some nontrivial number of motion outcomes are legally based, noncontroversial, and nonideological (Rowland and Carp, 1996).
This predisposition toward recommendation adoption is more likely to be set aside, however, when litigants signal to the court that the magistrate’s proposed outcome is controversial in some way. We liken this, in many ways, to the fire-alarm oversight that Congress engages in over executive-branch administrative agencies (McCubbins and Schwartz, 1984). To initiate the fire alarm here, a party may, before the judge’s decision whether to adopt the recommendation, file a written objection to the magistrate’s suggested outcome. When this happens, the district judge must provide de novo review to the magistrate’s proposed ruling, meaning that the magistrate’s recommended outcome may no longer receive a legal presumption of correctness on review.

It is when this objection takes place that we expect the danger of non-adoption to become real, since district judges will now be engaging in a thorough review. However, because magistrates making their original recommendations did so while accounting for the ideological preferences of their primary district principals, not all recommendations will be equally likely to not be adopted. Rather, we expect that once an objection is made, ideological congruity will matter. As the assigned judge’s preferences move further away from the mean ideology of the district (the principals that a magistrate was likely to be most concerned with in making his recommendation), the likelihood of adoption should drop.

There is also an institutional perspective to this application of principal-agency theory to the district judge-magistrate judge relationship. For magistrate judges, we expect that varying institutional pressures will affect the calculus of their decision making. After all, as indicated above, the need for and congressional authorization of magistrates came about because of a necessity to get help in processing cases in district courts. As these considerations become more salient and apparent in an individual district, the behavior of the magistrates and their supervising principals should change to account for this as well. This includes a rise in the caseload of district judges. These dynamics are not likely to be stable across time and districts. In particular, in districts where judges are overwhelmed by their cases and are not efficiently processing cases, the role of magistrates will be the most critical. During these times, magistrates will likely have more independence in their decision making, and we will see fewer non-adoptions, since the time and ability of district judges to engage in a careful review of recommendations will decline as caseload goes up. Thus, as the number of cases terminated each year by each judge rises within the district, we expect disagreement and the presence of non-adoptions to fall.

Our dependent variable in this analysis is whether the district judge disagrees with and fails to wholly adopt the magistrate judge’s recommendation. This variable is dichotomous, with complete agreement (adoption) being coded as 0 and any disagreement with the magistrate being coded as 1. This disagreement can come in the form of a wholesale rejection as well as through a modification of the recommendation in whole or in part. Within our data, just under 6 percent of the reports and recommendations led to disagreement.
Within our data, we measure the presence of an objection to a magistrate’s report and recommendation dichotomously, with objections coded as 1. Since motions and objections are recorded on a case’s docket, we use that document to code the existence of this variable. Over 41 percent of the recommendations in our data set received objections. We measure Ideological Distance: Assigned Judge and District as the absolute difference between a district’s (average) ideology and the ideology of the case’s assigned judge, both of which are coded in the year a case is terminated and using JCS scores. The average value of this variable is 0.26. Because this predicted relationship depends on both the presence of an objection and the ideological distance between the assigned judge and the district mean, we model this relationship as an interaction between these two key variables. We code the number of cases terminating in a district per year (Average Terminations per Judge) from the Administrative Office of the U.S. Court’s Annual Reporting (2007), with the average value in our data resting at approximately 457 per judge per year.

We also control for case, political, and judge-specific variables that might impact this relationship. Legally complex motions leading to reports and recommendations are more likely to lead to disagreement than those that are not complex. These motions, coded here with the presence of motions to dismiss and motions for summary judgment, require extensive briefing by the parties and, in most cases, independent research by the ruling judge. This process is likely to lead to hard second looks on review, some of which will lead to disagreement. Composing over 70 percent, these complex motions dominate our report and recommendation data.

We expect less agreement between magistrates and senior district judges than between magistrates and active district judges, since senior judges are no longer key decision makers in the district nor full-time members of their district community and, as such, should not be expected to have the same power over magistrates as the district’s active judges. In addition, senior judges are not as overburdened by their cases as their active colleagues, meaning that they are better positioned to engage in a thorough secondary review of magistrates’ recommendations. Senior judges serve as 17 percent of our report-and-recommendation-reviewing judges.

We also expect less agreement between the magistrate and assigned judge the longer the magistrate serves in the district. With additional years on the bench, magistrates are likely to gain more and more independence in their job. In addition, as that time increases, there is likely to be less likelihood that the judge will be elevated to a district court position, thus making concerns about a higher reversal rate relatively moot. The average service time of magistrates in these data is over nine years.

Finally, we control for the general issue area of the case. Based on the nature of suit codes (described above), these three categories are business cases (19 percent of reports and recommendations), civil rights cases (71 percent of cases), and personal injury tort cases (10 percent of reports and recommendations).
Table 3
Predicted Probability that a Case Will Have a Liberal Outcome (Non-Adoption)

<table>
<thead>
<tr>
<th></th>
<th>Coefficient</th>
<th>Standard Error</th>
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</thead>
<tbody>
<tr>
<td>Ideological Distance: Assigned Judge &amp; District</td>
<td>-0.930</td>
<td>(3.90)</td>
</tr>
<tr>
<td>Objection</td>
<td>0.376</td>
<td>(1.40)</td>
</tr>
<tr>
<td>Objection x Ideological Distance</td>
<td>2.353</td>
<td>(4.50)</td>
</tr>
<tr>
<td>Average Terminations Per Judge</td>
<td>-0.007*</td>
<td>(0.00)</td>
</tr>
<tr>
<td>Complex Motion</td>
<td>1.708*</td>
<td>(0.83)</td>
</tr>
<tr>
<td>Senior Assigned Judge</td>
<td>-0.292</td>
<td>(0.60)</td>
</tr>
<tr>
<td>Length of Magistrate Service</td>
<td>0.036</td>
<td>(0.03)</td>
</tr>
<tr>
<td>Business Case</td>
<td>1.013</td>
<td>(1.32)</td>
</tr>
<tr>
<td>Civil Rights Case</td>
<td>-0.114</td>
<td>(1.10)</td>
</tr>
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<td>Constant</td>
<td>-1.822</td>
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<tr>
<td>Log Likelihood</td>
<td>-65.601</td>
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<td>Observations</td>
<td>343</td>
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Note: Statistical significance is represented with * (p<0.05, two-tailed) and **(p<0.10, two-tailed), and robust standard errors are reported in parentheses. Personal Injury Case is the baseline issue area.

Results. The results of our estimated logistic regression of whether district judges do not adopt a magistrate’s report and recommendation are reported in Table 3. To conduct this analysis, we focus on the 343 cases from the above detailed sample that have a report and recommendation and a district judge response to that recommendation.5

Let us turn first to our principal-agency related covariates from this report-and-recommendation model. Our first key variable from this relationship is the interaction of objections to the magistrate’s recommendation and the distance between the ideology of the case’s assigned judge and the average ideology of the district judges. Because we are dealing with an interactive effect, we again turn to a plot of the predicted probability of the interaction impacting the dependent variable.

While the mean predicted probability of disagreement by a district judge with a magistrate’s recommendation varies greatly between cases with and without filed objections as the ideological distance between the case’s assigned district judge and the

5 We do not include observations where the case settled or otherwise terminated before the district judge responded to the magistrate’s report and recommendation.
Based on whether the assigned judge in the case is a district judge or a magistrate judge serving by consent, the mean ideological score in the district, and the case’s issue area. Other variables are held at the median and modal values. Ninety percent confidence intervals are depicted around the mean probabilities in the center and bottom panels of the figures.

district mean grows, these differences are generally not statistically significant due to large and overlapping confidence intervals on the predictions (see Figure 2). This relationship does near statistical significance in the differences when the ideological distance between the case’s assigned district judge and the district mean ranges from 0.17 to 0.43. This near-effect may still be notable due to the model’s relatively small sample size, the difficulty in systematically studying the report-and-recommendation-agreement process, and the strength of the trends that we find in our results, a subject that we return to in greater detail in the discussion section below.
There is evidence for the institutional side of our principal-agency story in the context of reports and recommendations (see Table 3). Our variable capturing the average number of terminations per judge in a district is negative and significant, indicating, as expected, that as the caseload per judge goes up, the likelihood of disagreement between assigned judge and magistrate goes down. Since the coefficients in logistic regression models cannot be interpreted for the size of effect that they have on our dependent variable, we turn to the simulation of predicted probabilities for this task (see Figure 3).

This variable has a sizable substantive effect on our dependent variable (see Figure 3). Districts with very low levels of terminations per district judge have a disagreement rate of approximately 15 percent. This is likely a sign that the magistrates serving in these districts feel less independence in their decision making due to the lower caseloads in the district, the decreased sense of judicial crisis, and the increased ability and time for district judges to actively monitor magistrates. On the other hand, as the number of terminations per judge in the district rise, we see the magistrates and their corresponding district judges altering their behavior and disagreeing with each other far less often. As the figure reveals, as this termination reaches its maximum—over 900 per judge—the disagreement probability nears 0. In these cases, while some of the decreased probability of non-adopted may be due to magistrates respectfully altering their decision making out of deference to the high caseload and general sense
of crisis in the district, it is more likely that what we are seeing is caused by a decrease in the ability of district judges to actively minimize shirking.

Finally, we only find statistical support for one of our control variables. In particular, complex motions increase the likelihood of disagreement after a report and recommendation. The coefficients for senior district judges, senatorial courtesy, magistrate length of service, and issue area do not reach statistically significant levels.

DISCUSSION

This study joins a small number of quantitative studies examining magistrate judge decision making and roles in federal district courts. To do so, it systematically examines, via district court dockets and case materials, the types of decisions that magistrate judges make and the constraining effect that district preferences have on those decisions in 20 of 94 district courts over a seven-year period in three broad issue areas. Our results from an analysis of both the decisions of magistrates while serving as the assigned judge in a case by consent and their reports and recommendations while assisting district judges indicate modest support for the existence of an effective principal-agent relationship between district judges and magistrate judges in federal district courts.

In the context of magistrates acting as assigned judges by the consent of the parties, our results indicate that in many situations where their overall supervising district court’s ideological identity is not conservative, magistrate judges are significantly more likely to decide cases liberally than district judges. This is exactly the type of behavior that we anticipate district courts want from their agents. Regarding the reporting and recommendation function of magistrate judges, while the story of this relationship is complex, we also find some interesting effects. For example, we find institutional effects that are related to principal-agency, monitoring, and shirking. In particular, as a district’s number of case terminations per judge (a proxy for caseload) rises, a district judge’s time and ability to effectively monitor a magistrate’s recommendations drops, meaning that the likelihood of non-adoptions goes down even further than the already low baseline probability. We did not find, however, strong statistical evidence to support our expectation that the presence of a party objection to a magistrate’s recommendation combines with an ideological outlier assigned district judge to increase the likelihood of non-adoption. Given our modest sample size and the inappropriateness of examining magistrate decisions and activity using traditional mechanisms (e.g., published opinions), we believe that these results are all the more impressive.

Overall, this research indicates that district courts have numerous effective mechanisms at their disposal that allow them to delegate vastswaths of decision making to magistrates while avoiding many of the pitfalls of the moral hazard of principal-agent relationships. As a centralized body, district courts can maintain control over the actions and outputs of magistrates through careful selection and screening of agents, sanctions such as firing and assignment demotions, incentives such as reapp-
pointments and reputation building, and, where necessary, monitoring—particularly when permitted by institutional circumstances, such as a low-to-moderate caseload. Compared to many other applications of principal-agency theory to the judicial context, the strength and variety of these tools is particularly notable.

As a result, our findings are likely to give many district judges confidence in their increased use of and delegation to magistrate judges. More broadly, politicians and other outside court watchers are likely to take heart in this evidence. Despite magistrates not having Article III's careful political vetting process, they are not, generally speaking, unaccountable, unresponsive, or abusive carriers of justice in our federal courts. As such, many are likely to continue to view magistrates as both necessary and effective actors at helping stave off the ongoing judicial crisis that has resulted from increasing caseloads, rising judicial retirements, and vacant Article III judgeships.

Ultimately, however, we believe that future systematic work is needed to more carefully examine magistrate decision making in a variety of contexts and across all district courts. As we note in the text above, magistrate judges serve in many capacities in district courts, and we only examine two, albeit very salient areas, of these here. It could be, for example, that while processing early criminal proceedings like arrest and search warrants, initial appearances, and detention hearings, magistrate independence is at its highest since districts have relatively small amounts of monitoring in place, district judges are less likely to have previously formed preferences over outcomes, and the decision-making tasks are more likely to be considered to be menial or sub-judicial.

At the same time, more work is needed to examine whether it is reasonable to assume that magistrate judges can accurately sense or assess a district’s true centralized ideology and preference regarding much of their decision making and activities. District court judges have many fewer occasions to work together in a formalized setting than, for example, a collegial court. Simultaneously, the empirical findings on effect of ideology in judicial decision making and outcomes is far less compelling and unified for district courts than it is regarding appellate courts, particularly when settlement and pre-termination decision making are added into the mix. The result of this may well mean that magistrate judges are unable to recognize what is expected of them from their overall district in all scenarios, an opening that could allow more room for personal preferences and judicial independence to operate for some magistrate judicial roles. Only with further detailed and systematic work on magistrate judges, in-depth examination of individual districts and their practices, and the dynamics of district court litigation more generally can we really begin to assess these things going forward.

jsj

REFERENCES


