

Supply-Side Dynamics of the US Supreme Court Docket:

The Spatial-Temporal Landscape of Writ of Cert Petitions ^{*}

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Abstract

Existing scholarship on US Supreme Court certiorari has largely centered on the demand-side, prioritizing the internal motivations of justices. This approach often overlooks the broader supply-side perspective—the nature and evolution of the complete pool of petitions. This study addresses this gap by analyzing the universe of writs of certiorari from 1946–2019. Coding for petition date and origin, petitioner identity, and disposition, we trace the composition of petitions across eras and jurisdictions. By linking petitions to merits-stage attributes, we find that the Court’s plenary docket is selected from a geographically and organizationally uneven petition environment, that federal-origin petitions dominate both filings and the docket, and that institutional repeat players succeed at higher rates than individuals despite a steady increase in petitions from the latter. By mapping this upstream landscape, we provide a descriptive baseline and measurement framework that illuminates the dynamics of the petition supply and provides context to the demand-side accounts of Supreme Court agenda-setting.

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The Supreme Court’s most consequential work is not only deciding cases but deciding which cases to decide. Classic accounts of certiorari focus on how justices, operating under capacity constraints, weigh legal importance, conflict, and policy goals to allocate scarce plenary slots (e.g., cue theory, error-correction, and jurisprudential development). We build on that tradition by focusing on the supply dynamics that precede those choices—the spatial-temporal and organizational processes that determine which petitions arrive at the Court, in what form, and with what information content.

Despite its discretionary power, the Court remains a reactionary institution that can only “respond to cases the parties have chosen not to settle” (Cross, 2003, p.1491). Hence, the composition of the petition pool—i.e., the supply side—is neither random nor static. It is produced by the geography of litigation, by institutional changes in the lower courts and Congress, and by the organizational capacity and incentives of repeat players and individual litigants (Mak, Sidman and Sommer, 2013). Our central premise is that understanding the contemporary docket requires analyzing changes in the supply of petitions across time and space, and by petitioner identity, alongside the Court’s well-studied agenda-setting behavior.

Supply-side dynamics consider the composition and quality of the petition pool in a given term—not solely its size. This perspective places emphasis on the selection effects in litigation that precede the justices’ decision to grant review in a case. Specifically, we argue that supply varies along four dimensions: (1) composition (originating institution and geography, party status, and paid versus *in forma pauperis*); (2) vehicle quality (conflict, dissents/en-banc below, record cleanliness, and preserved questions); (3) signal structure (SG involvement, amicus briefs, and elite counsel); and (4) expected information value (the petition’s usefulness for clarifying doctrine or correcting error). Even with thousands of filings—from roughly 1,500 in 1950 to about 5,000 in 2010s—there can be scarcity in the relevant dimensions, including few clean conflicts in a specific doctrinal niche, thin percolation on newly salient questions, or records ill-suited to yield generalizable rules. Thus, aggregate abundance does not eliminate supply-side constraints, instead it shifts the feasible frontier from which the justices choose.

This approach is consonant with the broader selection-effects in litigation, where the disputes that reach any decision-maker are a non-random subset of all potential disputes, filtered by incentives, resources, doctrine, and institutional pathways (e.g. Eisenberg, 1990; Blume and Eisenberg, 1999; Chang and Hubbard, 2018; Hylton, 2002). In the certiorari context, the relevant suppliers are (i) litigants (individuals, organizations, states, and the United States) and their counsel; (ii) lower courts—whose caseloads, policies, and internal procedures affect conflict production and record quality; and (iii) intermediaries (Solicitor General, state solicitors general, and the modern Supreme Court bar). The behavior of

this wide-range of actors, operating within changing statutory and administrative regimes, generates the menu of vehicles that the Court can plausibly review. The Court’s preferences and internal norms—demand-side forces—then operate on that menu, not in a vacuum.

We leverage this logic descriptively. Using the Supreme Court’s Journal, we assemble the complete universe of writs of certiorari, 1946–2019, and code origin (federal courts of appeals vs. state courts), petitioner identity (United States, states, organizations, individuals), filing status (paid vs. *in forma pauperis* or IFP), and disposition, linking petitions to merits attributes. We merge these petition-level data with the US Supreme Court database ([Spaeth et al., 2022](#)) to situate petitions against case origins on the plenary docket. We then trace how petition supply varies across time and space and how those regularities relate to the small fraction of petitions that become argued cases.

Our findings reveal three durable patterns. First, origin matters. Federal-origin petitions dominate the pool and the merits docket, but not in a strictly mechanical way, and the relative balance shifts across eras as lower-court pipelines change (e.g., immigration surges, specialized dockets, and reorganization of circuits). Second, petitioner identity matters. Individuals—disproportionately IFP—supply most filings, yet account for a small share of grants, while institutional repeat players (the United States and states) file more selectively and succeed at higher rates, consistent with resource and credibility advantages. Third, capacity and professionalization matter. The contraction of the merits docket after the 1980s, coupled with the rise of a specialized Supreme Court bar, altered both the quality packaging of petitions and the expected payoff to filing, reshaping who files, what gets filed, and where grants occur.

In this paper, we provide a spatial-temporal map and measurement framework of the petitions actually available for selection. Using the complete corpus of certiorari petitions filed over the past seven decades, we document geographic, institutional, and ideological patterns that structure the Court’s choice set across time and space. This descriptive baseline supplies empirical levers for evaluating demand-side theories on the full set of petitions and clarifies why the upstream menu of feasible vehicles varies by region, institutional source, and party identity. In doing so, the supply-side perspective deepens accounts of agenda setting and underscores broader implications for the Court’s representativeness, accessibility, and responsiveness.

On Cert Decision Making

The process by which the US Supreme Court selects cases for review reflects a dynamic interplay between judicial preferences, litigant strategies, and institutional norms¹. The literature of judicial behavior converges on three core frameworks for explaining cert decisions: cue theory, error correction, and jurisprudential development. These frameworks are not mutually exclusive. Rather, they offer complementary lenses on how justices, operating through a two-tiered process that starts with the clerks’ screening and ends with the Justices’ conference (Perry, 1994), sort through a large, litigant-driven petition pool (Mak, Sidman and Sommer, 2013).

Cue theory treats certiorari as a high-volume screening problem. Justices and clerks rely on informational signals that help identify petitions likely to be “certworthy” given limited attention and docket capacity (Black and Boyd, 2013; Caldeira and Wright, 1988; Caldeira, Wright and Zorn, 1999). These cues operate beyond purely attitudinal strategy and include both “low-information” and “high-information” indicators (Black and Boyd, 2013). Low-information cues include familiar markers of inconsistencies in the law or importance such as an inter-circuit conflict (“circuit split”), dissents below, reversals of the court of first instance, and institutional signals generated by the courts of appeals themselves—most notably en-banc decisions, which are independently and positively associated with Supreme Court review even after accounting for classic cert variables (George and Solimine, 2001).

More recent work also treats dissents as whistleblowing that draws hierarchical attention (Beim, Hirsch and Kastellec, 2014). The ideological configuration of the lower court relative to the Supreme Court may itself operate as a cue, with review more likely when the panel’s ideological composition is in tension with the Court’s (Black and Owens, 2012; Hall, 2009). Such cues economize on screening time by signaling importance or doctrinal inconsistencies without requiring full review on the merits.

High-information cues center on the Solicitor General (SG), whose recommendations and participation operate as unusually credible indicators of legal and policy consequence (Bailey, Kamoie and Maltzman, 2005; Black and Owens, 2011)—a dynamic arguably amplified by the contemporary use of the shadow docket (Vladeck, 2019, 2023). Amicus support on the petitioner’s side likewise communicates broad interest and downstream stakes, and is consistently associated with higher grant probabilities (e.g., Caldeira and Wright, 1988; Caldeira, Wright and Zorn, 1999; Collins, Corely and Hamner, 2014; Hansford and Johnson, 2014; Abi-Hassan, Box-Steffensmeier and Christenson, 2025). Additional signals, such as elite counsel and the presence of former Supreme Court clerks on briefs, reinforce percep-

¹See Appendix A for a more in-depth discussion on the writ of certiorari process.

tions of vehicle quality and certworthiness (Liu and Kastellec, 2023; Feldman and Kappner, 2017). Petitions that raise novel or broadly important constitutional questions are also more likely to make the discuss list and advance to conference, consistent with the Court’s preference for cases that can produce generally applicable guidance (Black and Boyd, 2013). Cue theory thus connects the form of the petition (e.g., clear questions presented) to the function of docket selection. Collectively, this suggests that cues do not replace legal judgment; instead they prioritize attention and certify quality. In practice, cues often interact with the other frameworks by helping discover where error correction is needed and locating strong vehicles for jurisprudential development.

Error-correction based scholarship present certiorari as means of hierarchical control. The Court deploys its limited plenary space to police legal error and resolve inconsistencies in the law, while moving doctrine toward the preferences of the median justice (Grant, Hendrickson and Lynch, 2012; Cameron, Segal and Songer, 2000). Inter-circuit conflict and visible disagreement between lower courts (e.g., dissents, en-banc activity) are robust predictors of grants because they signal the presence of conflict in national law, requiring Court’s intervention to restore uniformity. The Court acts as a selective auditor, focusing on cases with significant doctrinal or ideological implications (Cameron, Segal and Songer, 2000), and the broader theoretical treatment emphasizes that discretionary jurisdiction “privileges error-correction” given capacity constraints (Clark and Kastellec, 2013). Consistent with strategic auditing, grants are more frequent where lower-court law or personnel are ideologically distant from the Supreme Court median or otherwise invite monitoring (Lindquist, Haire and Songer, 2007; Black and Owens, 2012; Bryan and Owens, 2017).

All else equal, greater ideological distance between a lower court’s disposition and the Supreme Court’s preferences increases the likelihood of review (Cameron, Segal and Songer, 2000). However, the authors point out that when that distance is extreme or the factual position of the lower court is a poor vehicle for resolving conflict, the informational value of review may decline. In such instances, the Court may bypass ideologically distant cases in favor of those offering clearer doctrinal leverage. Critically, litigant strategy shapes what the Court is able to audit—losing litigants are more likely to file cert petitions when the lower court case outcome and the Supreme Court are more closely aligned, resulting in a nonrandom pool of cases that reflects perceived ideological alignment (Yates, Cann and Boyea, 2013; Hinkle, 2024). This contributes to higher rates of ideological voting among appealed cases (Songer, Segal and Cameron, 1994; Songer, Cameron and Segal, 1995). Building directly on this monitoring logic, Bonica, Chilton and Sen (2025) introduce the “odd party out” theory, which adds a party-configuration signal of potential error. The Court is more likely to grant cert when the petitioner is ideologically distant from both the respondent and the panel that

ruled against them, a configuration that plausibly flags bias or misapplication by an aligned lower court. Empirically, the authors’ measure predicts grants even after accounting for standard indicators such as dissent, en-banc, and SG involvement, functioning as a cue that enables error-correction by helping the Court target outlier or potentially skewed outcomes (Bonica, Chilton and Sen, 2025).

Jurisprudential development perspectives foreground the justices’ interest in building, clarifying, and extending doctrine. Certworthiness depends on a petition’s capacity to produce clear, generally applicable law—clean records, preserved questions, and narrow, dispositive issues increase the expected payoff of doctrinal clarification (Grant, Hendrickson and Lynch, 2012; Cross, 2003; Segal and Spaeth, 2002). In this register, Black and Owens (2009) show that at the cert stage justices weigh expected policy payoffs against jurisprudential criteria such as legal importance and conflict, and that when those collide, jurisprudential considerations constrain—or even override—pure policy maximization, whereas alignment between policy and law “liberates” justices to pursue their preferred outcomes. Related scholarship casts the lower courts as sites of doctrinal learning and experimentation that the Supreme Court can leverage when selecting cases (Beim, 2017; Clark and Kastellec, 2013), a perspective consistent with classic accounts of agenda-setting (Perry, 1994).

The plenary docket often reflects an alignment between the justices’ jurisprudential priorities and litigants’ strategic case construction, with sophisticated parties crafting vehicles responsive to perceived Court signals (Baird, 2007). Status asymmetries shape access to this doctrinal agenda. Notably, high-status petitioners—such as the federal government represented by the SG—enjoy structural advantages in both securing a grant and shaping the Court’s agenda (Black and Boyd, 2012). Empirical work shows justices frequently follow SG recommendations even when those recommendations cut against ideological priors or case-specific legal factors, reflecting the SG’s institutional credibility and repeat-player status (Black and Owens, 2011). Amicus participation can amplify or mitigate these advantages by signaling the breadth and configuration of interests implicated (Black and Boyd, 2012; Collins, Corely and Hamner, 2014; Hansford and Johnson, 2014; Abi-Hassan, Box-Steffensmeier and Christenson, 2025).

In practice, these three frameworks—cue theory, error correction, and jurisprudential considerations—operate jointly and through a petition pool that is neither random nor static. Petitioners deploy dissents below and amici to elevate perceived importance (Mak, Sidman and Sommer, 2013), but structural advantages—resources, repeat-player status, elite counsel—systematically mediate success (Yates, Cann and Boyea, 2013; Black and Boyd, 2012). Recent scholarship suggests filing behavior itself shifts with Court ideology, with individuals and organizations representing marginalized groups filing relatively fewer peti-

tions, and business and conservative interests increasing filings and amicus participation during more conservative periods (Widner and Gunderson, 2024). Ignoring selection into filing risks biased inferences about grant determinants; modeling the decision to file alongside the decision to grant is essential to recover the mechanisms driving agenda-setting.

In a parallel body of research in law and economics, Eisenberg (1990) offers a foundational theoretical and empirical account of how the observable universe of litigated cases is systematically shaped by a “selection effect”—litigation outcomes are endogenously filtered through the incentives and constraints of litigants, creating selection bias in the cases courts ultimately decide. This logic is echoed in Blume and Eisenber’s (1999) study of death penalty appeals, which shows that prosecutorial discretion, adjudicator behavior, and state-level institutional practices jointly determine which capital cases are reviewed, with profound implications for understanding variance in reversal rates and judicial responsiveness. Building on this foundation, Chang and Hubbard (2018) use trial-level data to demonstrate how the structure of legal incentives affects not just case outcomes, but the underlying decision to litigate or settle. Hylton (2002) further advances this logic through a formal model of litigation under asymmetric information, demonstrating that when defendants possess superior knowledge of their own liability, selection effects emerge that not only skew win rates but shape the very pool of cases that proceed to trial.

Taken together, these works underscore the notion that the certiorari docket does not merely reflect the legal importance or ideological salience of petitions—it is the outcome of a multilayered filtering process structured by institutional incentives, regional discretion, asymmetric information, and actor-specific strategies at the point of filing. The filtering process distorts the inferences one can make from litigated outcomes alone because the causes that survive to higher levels of adjudication are not representative of the broader legal and factual universe. Integrating these insights enriches the agenda-setting framework by anchoring it in broader theories of case selection, informational dynamics, and legal stratification.

Justice Douglas’s (1960, p.413-14) admonition that understanding certiorari demands “the economist’s understanding, the poet’s insight, the executive’s experience, the political scientist’s understanding, and the historian’s perspective” underscores the breadth of forces at work in the process of reviewing and granting cert. Historically, the Court’s campaign for greater discretion, culminating in the Judiciary Act of 1925, was justified in part by a promise of equitable geographic representation across jurisdictions (Cordray and Cordray, 2004; Perry, 1994). Law is not created in a purely conceptual vacuum but in legal space—the origin of disputes, the regional legal cultures that generate them, and the institutional pathways they travel all shape the menu of questions available to the Court (Economides, Blacksell

and Watkins, 1986; Pue, 1990). Existing work links region and issue mix—such as the South’s disproportionate role in Eighth Amendment litigation, the Northeast’s prominence in search-and-seizure, and the West’s in environmental disputes (Brunn et al., 2000)—and shows non-proportional geographic contributions on issues like abortion and redistricting (Stoler and Roman, 2016). Recognizing this spatial heterogeneity and the petition supply that reflects it clarifies why some cues arise more frequently than others, why certain conflicts ripen sooner, and why some vehicles prove especially attractive for doctrinal development. Placed in this broader ecosystem, the Court’s discretionary power is best understood as the product of screening signals, hierarchical control, and jurisprudential ambition operating within, and conditioned by, the strategic behavior of litigants and the spatial-temporal distribution of legal questions.

Building the Legal Landscape

To better understand the dynamics of agenda-setting judicial behavior, we must examine the supply of petitions from which the Supreme Court chooses cases for review on the merits. Comprehensive data of this nature—spanning geography, time, and issue area—have largely eluded the discipline. We therefore begin by assembling a dataset encompassing all petitions filed with the US Supreme Court between 1946 and 2019. Using the Supreme Court Journals (SCOTUS, 2020), we compiled identification data for 313,441 petitions. Employing an error detection protocol within the Optical Character Recognition (OCR) process,² we meticulously extracted the petitioner and respondent names and status (federal government, state/local government, business/organization, individual), case origins, and the status of each petition—granted or denied—with a 95% confidence level.³ The resulting dataset categorizes all petitions according to geographic origin, source court and petitioner type, juxtaposed with the number of cases granted review. This also includes an identification of paid versus *in forma pauperis* (non-paid) cases.

For the plenary docket data, we extract from the US Supreme Court Database (SCDB) (Spaeth et al., 2022) case identification variables, including state of origin and case disposition. The SCDB contains case-related attributes such as dates, issue area, disposition of the case, winning party, and justice-related variables such as justices’ votes, opinion writing, and inter-agreements between justices. Thereafter, we merge our original cert dataset with the selected covariates from the US Supreme Court database (Spaeth et al., 2022). The

²Optical Character Recognition refers to the technological conversion of scanned text—be it handwritten, typed, or printed—into machine-encoded text.

³This percentage is derived from a comparison of cases in the Spaeth dataset (Spaeth et al., 2022) and the petitions granted in our preliminary dataset.

final product is a dataset containing all petitions filed between 1946-2019, sorted by court of origin, contrasted with the number of cases on the docket, and the percentage granted.

Spatial-Temporal Patterns in the Law

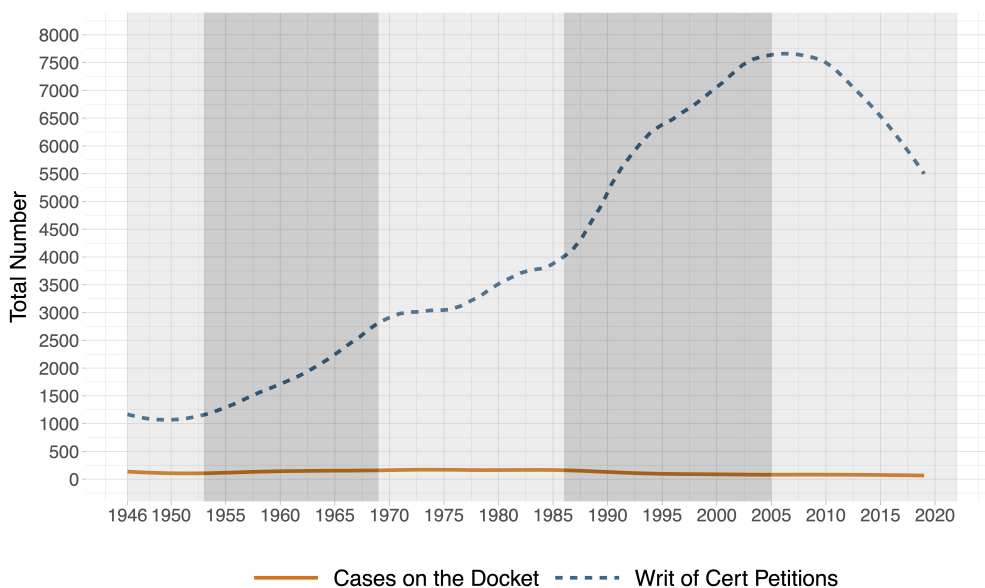
The evolution of the federal court system has been primarily driven by the aim of solving the wide variety of disputes arising from both federal and state legal systems to maintain a consistent interpretation of the law across the country. Although the justices exercise control over their docket, this control is institutionally limited to cases that are appealed. In other words, the Supreme Court depends on losing litigants to bring cases before it (Mak, Sidman and Sommer, 2013). As a result, the decision-making process for granting certiorari fundamentally relies on the decision to appeal, making the pool of cert petitions neither random nor static. This invites inquiry into how has the supply of petitions changed over time and where do the most salient volumes of cert petitions originate from? More importantly, how does the influx of petitions compare to the grant rate across different sources of origin over time?

Over the past 75 years, the Court’s docket has expanded substantially, driven largely by the growing scope of the federal government and the establishment of federally enforceable individual rights. This expansion is evident in the increase in certiorari petitions from approximately 1,300 in 1950 to over 5,000 in the 2000s. In contrast, the number of cases granted review has fluctuated from roughly 100 in the 1950-60s, to 150 in the 1970-80s, and down to about 80 cases per year following the 1988 jurisdictional reforms—amounting to roughly 1% of the Court’s docket. This divergence underscores the Court’s highly selective decision-making process, where grants are the result of a filtering process that begins with clerks privileging cases that score high on objective certworthiness, and credible proximate cues (Benesh, Armstrong and Wallander, 2020). This is further compounded by the justice’s own strategic and legal considerations (Black and Boyd, 2012). Given the statistical rarity of formal review, it is essential to focus not only on the cases that receive full consideration, but also on the broader pool of petitions available to the Court.

The stark disparity between the total number of cert petitions filed and the cases granted review over time is evident in Figure 1. Starting in 1946, the number of petitions begins to increase at a constant rate until the mid-1980s, with a sharper increase up until 2005, when petitions begin to drop. In contrast, the number of cases granted review remains relatively steady until 1988, and then drop to about 80-100 per year. This drop coincides with the removal of the Court’s mandatory appeals jurisdiction in the Judiciary Act of 1988, which converted the rulings in state court on the validity of federal statutes or treaties and appeals

from circuit courts to discretionary review by certiorari, reducing the number of cases the Court was required to hear to practically zero.

Figure 1: Total Cases & Petitions, 1946–2019



Note: Shading categorizes the year variable into courts by Chief Justice: Fred M. Vinson (1946-1953), Earl Warren (1953-1969), Warren E. Burger (1969-1986), William Rehnquist (1986-2005), John Roberts (2005-incumbent).

In addition to the expansion of federal authority and the creation of new individual rights—which we explore further in the paper—the dramatic growth in the Supreme Court’s docket has also been linked to the rise of the Supreme Court bar. Beginning in the mid-1980s, a modern, elite bar emerged, composed of former Solicitors General, deputies, and clerks who joined major law firms and brought sophisticated expertise in packaging and presenting petitions. As [Lazarus \(2008\)](#) documents, private firms—most notably Sidley’s recruitment of former SG Rex Lee in 1985—deliberately built elite SCOTUS practices, even as the Court’s merits docket contracted. This development was reinforced by broader transformations in corporate legal strategy during the same period, including the growth of in-house legal departments and increased demand for specialized Supreme Court advocacy. Together, these changes sustained a high volume of petitions and contributed to a supply-side professionalization that made sophisticated parties more likely to file cert petitions—and to frame them in ways that enhance their certworthiness.

The expansion in the Supreme Court bar’s membership coincides with the turn over of the Court’s leadership to Chief Justice Rehnquist along with the appointment of Antonin Scalia as associate justice in the same year. Both favored a limited role for the Court in resolving societal disputes and strongly believed that not all lower court conflicts presented

questions salient enough to merit its attention (Merrill, 2003). This makes the 1980s an institutional and ideological inflection point in the Court’s operation, which changed both the docket size and litigants’ expectations about payoffs to filing (Lazarus, 2008).

Another notable change in the relation between cert filings and the Court’s plenary docket is the drop in the number of petitions beginning in the 2006 term. This coincides with the beginning of the Roberts’ Court, which was expected to accentuate the conservative shift in the Court’s ideological composition that had started during Chief Justice Rehnquist’s tenure. Coupled with an emphasis on hearing more business cases, and their exceptional success starting in the 2006 term⁴, this drop in petitions may be the outcome of liberal advocates being discouraged from pursuing litigation in areas of individual liberties, including litigants filing *in forma pauperis*, as evidenced by the empirical findings of Widner and Gunderson (2024). The downward trend in petitions starting in 2005 is also consistent with Baird’s (2007) argument that politically salient Supreme Court decisions operate as signals to litigants and interest groups about the Court’s policy priorities; strategic actors respond by generating and framing additional, higher-quality litigation in those specific policy areas. Policy-specific waves of filings are predictable supply-side responses to politically salient Supreme Court decisions. Such decisions signal policy priorities to litigants and interest groups, who then generate and frame additional cases in those domains.⁵ We would expect to encounter the opposite effect if the Court’s salient cases signal to litigants that some policy areas are less favored by the Court. Changes in the Court’s docket can also be linked to the emergence of information technology, which facilitated the communication and monitoring between circuit courts to reduce the possibility of legal conflicts (Narechania, 2022).

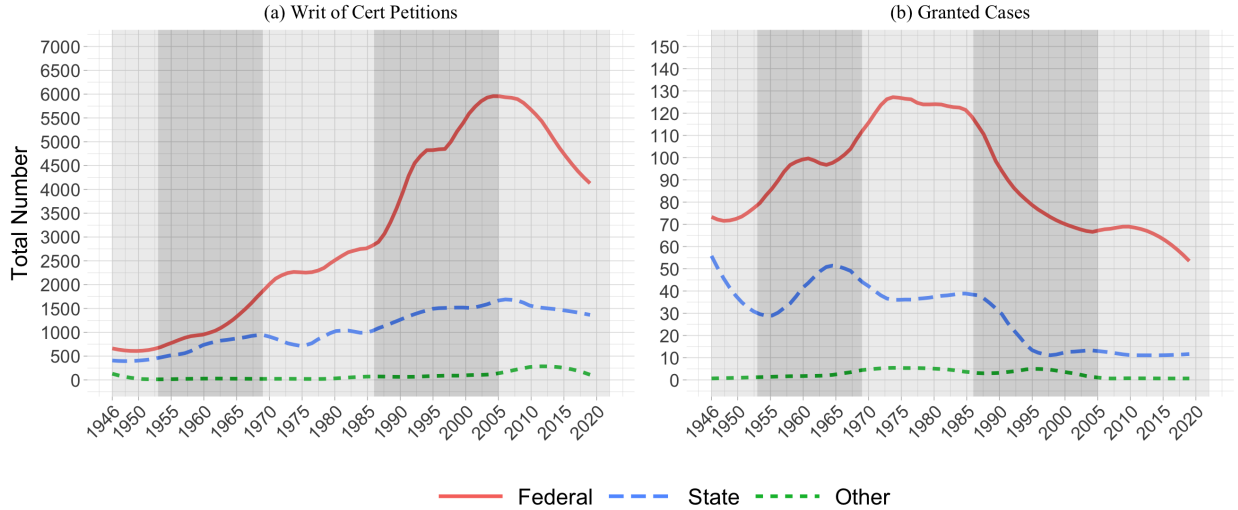
As the primary contributors to the Supreme Court’s plenary docket, fluctuations in the volume and characteristics of rulings in lower federal and state jurisdictions impact the Court’s case composition, even though it does not directly impact the rate at which the Court grants review. As shown in Panel (a) of Figure 2, approximately two-thirds of cert petitions originate from the federal courts of appeal, with the remainder distributed between state courts and other sources.⁶ Panel (b) of Figure 2 illustrates that, in accordance with observed trends, the bulk of the cases on the Court’s plenary docket are sourced from federal courts, followed by state courts and other sources. However, discernible temporal variations are evident. From 1970–1985 federal petitions are granted at a disproportionate

⁴According to Lazarus (2008) business advocates (e.g., the US Chamber) won 13 of 15 cases with Chamber amicus in that term.

⁵In Baird’s 2007 model, one salient decision yields 1.6 extra appeals cases four years later and 0.74 additional Supreme Court decisions five years later, with amicus participation rising in tandem, indicating higher-quality legal vehicles.

⁶The ”Other” category encompasses petitions that do not specify a source.

Figure 2: Petitions & Cases Categorized by Source, 1946–2019



Note: Shading categorizes the year variable into courts by Chief justice: Fred M. Vinson (1946-1953), Earl Warren (1953-1969), Warren E. Burger (1969-1986), William H. Rehnquist (1986-2005), John Roberts (2005-incumbent).

rate in comparison to cases originating from state courts. Starting in the 1980s, the Court markedly reduced its plenary docket regardless of fluctuations in the volume of petitions received, for all three jurisdictions alike.

Table 1 summarizes the total number of petitions and cases per court of origin at the federal and state level. Between 1946-2019, the average grant rate for all cases is 2.85%, however, there are significant differences between jurisdictions.⁷ There is variation in the number of cert petitions filed by the different jurisdictions—going from 1,427 petitions appealed from US District Courts to 35,651 and 38,727 petitions coming from the Ninth Circuit Court of Appeals, and State Appellate courts, respectively. This is contrasted by grant rates that range between 0.75% for state trial courts and 55.47% for cases coming from U.S. District Courts.⁸ As the Court grants so few cases in comparison to the number petitioned, even a fraction of a percentage difference can represent dozens of cases. To explore this level of variation at a more granular level, in the following sections we analyze the over time variation for petitions filed and cases granted among different jurisdictions, specifically: federal lower courts and state courts.

⁷This rate includes only cases that were granted and scheduled for a full merits review. This excludes decisions that were reversed and remanded, GVR orders, and summary reversals. We code these decisions as denials

⁸These are cases decided by an especially convened three-judge district court regarding injunctions, which are directly appealable to the Supreme Court.

Table 1: Descriptive Statistics, 1946-2019

Source Type	Petitions	Cases	%Granted
Total Federal	228,035	6,674	2.93%
US Court of Appeals, First Circuit	6,166	180	2.92%
US Court of Appeals, Second Circuit	17,780	637	3.58%
US Court of Appeals, Third Circuit	16,060	407	2.53%
US Court of Appeals, Fourth Circuit	21,992	377	1.71%
US Court of Appeals, Fifth Circuit	33,383	684	2.05%
US Court of Appeals, Sixth Circuit	21,164	496	2.34%
US Court of Appeals, Seventh Circuit	14,916	476	3.19%
US Court of Appeals, Eighth Circuit	14,041	346	2.46%
US Court of Appeals, Ninth Circuit	35,651	1,068	3.00%
US Court of Appeals, Tenth Circuit	11,694	277	2.37%
US Court of Appeals, Eleventh Circuit	21,085	224	1.06%
US Court of Appeals, DC Circuit	7,175	491	6.84%
US Court of Appeals, Federal Circuit	3,502	110	3.14%
US Special Courts	2,000	110	5.50%
US District Courts	1,426	791	55.47%
Total State	79,203	2,055	2.59%
State Supreme Courts	36,101	1,693	4.69%
State Appellate Courts	38,727	329	0.85%
State Trial Courts	4,375	33	0.75%
Other	6,203	201	3.24%
Grand Total	313,441	8,930	2.85%

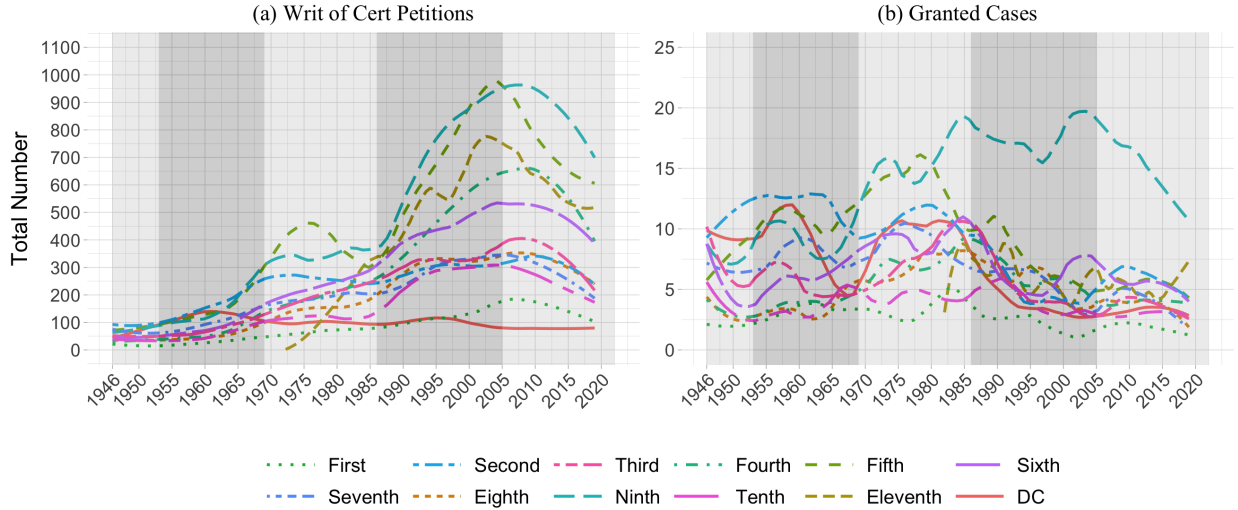
Note: There are 100 cases from the 1940s-50s originating in US District Courts that also fall under a State court jurisdiction; in the maps these cases have been included in the State Courts count. The “Other” category contains petitions that were not clearly labeled in the US Supreme Court journals, as well as Original Jurisdiction cases.

Federal Lower Courts

Trends in the volume of cert petitions are primarily driven by cases coming from the lower federal courts. In general, shifts correspond with the expansion of the US courts of appeal dockets, going from 30,000 to 60,000 annual cases between 1985 and 2005, before stabilizing at approximately 45,000 cases per year thereafter (Lazarus, 2008). Providing a more detailed level of analysis, Figure 3 shows the breakdown of petitions and cases granted for the US Circuit Courts of Appeal. Although most circuit courts show an increase in the number of cert petitions, it is most significant, in order, for the Ninth, Fifth, Eleventh, Fourth and Sixth Circuits (see Panel (a) in Figure 3). More importantly, there is great variation between the number of petitions coming from each circuit and the rates at which petitions are granted over time. Below we synthesize explanations for why the rate of certiorari petitions from different US Courts of Appeal varies over time considering the overall supply of “cert-worthy” questions a circuit produces, institutional shocks that differently affect circuits, and the demand-side that change litigants’ incentives to petition.

Circuits differ, persistently, in both volume and composition of appeals. Statistics for

Figure 3: US Courts of Appeals, 1946-2019



Note: Shading categorizes the year variable into courts by Chief justice: Fred M. Vinson (1946-1953), Earl Warren (1953-1969), Warren E. Burger (1969-1986), William H. Rehnquist (1986-2005), John Roberts (2005-incumbent).

the federal judiciary document large and shifting circuit caseloads where, unsurprisingly, larger pipelines (e.g., the Ninth and Fifth) tend to produce more potential petitions, while specialized pipelines (e.g., the D.C. Circuit’s administrative docket; the Federal Circuit’s patent docket starting in 1982) generate issues the Court regularly polices. Hence, we would expect higher per-decision pressure when a circuit’s docket generally produces cases in nationally consequential areas of the law (e.g., admin law in D.C.; securities in the Second; patents in the Federal Circuit).⁹ For instance, the Ninth Circuit Court of Appeals is known to handle a large proportion of cases dealing with immigration, environmental, and First Amendment questions (Feldman, 2025). In the early 2000s, the DOJ’s Board of Immigration Reform was associated with a surge of immigration cases in the Second and Ninth Circuits, sharply altering those circuits’ dockets, which is consistent with the trend observed in Panel (a) of Figure 3. In addition, the Fifth Circuit Court of Appeals Reorganization Act of 1980 redistributed appeals between the Fifth and a the new Eleventh Circuit Court of Appeals. In our series, this appears as a step-down in the Fifth Circuit’s petition share and a corresponding step-up in the number of petitions in the Eleventh Circuit beginning in the 1981-82 term. Moreover, as the Court’s cert policy emphasizes resolving splits, circuits that more frequently generate or attract conflicts will produce more petitions. Hellman (1978)

⁹The Federal Circuit Court of Appeals has been historically the least likely to be granted review by the US Supreme Court. Up until 1992, the Court only reviewed 17 cases from the Federal Circuit, affirming the lower court’s decision in only five of those (Abate and Fish, 1992). Although not shown in Figure 3, this is consistent with the small number of petitions coming for this lower court, which mostly deals with patent cases, and some related to international trade and monetary claims against the US government.

emphasizes how conflict production varies by circuit—for instance, the Ninth Circuit’s sheer size and unique limited en-banc procedure can foster inconsistency and sustain splits longer, which is known to increase incentives to petition and potentially the rate at which they are granted as evidenced by Panel (b) in Figure 3.

Agenda-setting accounts show that cert is more likely when the Court perceives lower-court decisions as ideologically adverse or doctrinally problematic. When a circuit’s median is far from the Supreme Court, losing parties (and the SG) have stronger reasons to petition, expecting a receptive Court (e.g. [Black and Owens, 2011](#); [Caldeira and Wright, 1988](#); [Bustos and Jacobi, 2019](#); [Cameron, Segal and Songer, 2000](#)). In periods when, for example, the Ninth Circuit was relatively liberal vis-à-vis the Burger/Rehnquist Courts, you often see more petitions driven by policy disagreement and conflict correction. This is also consistent with the observed surge in cases granted review for the Ninth Circuit beginning in mid-1970s, as shown in Panel (b) of Figure 3.¹⁰ In addition, the modern Supreme Court strategically is more likely to select cases with high-status petitioner and advocates, as well as those supported by amicus briefs ([Collins, 2008](#); [Feldman and Kappner, 2017](#)). A professionalized pipeline of cases increases both the quality and salience of petitions from certain circuits, raising grant probability and upstream filing incentives, especially for those cases that are attractive to the Supreme Court bar (e.g., D.C. administrative law cases, Federal Circuit patents, 2nd Circuit post-2008).

Beyond the imposition that jurisdictions have on where cases can be appealed, litigants from across the political spectrum are also known to engage in venue shopping when filing suits in district and appellate courts in search for the most advantageous pool of judges ([Atkinson, Marco and Turner, 2009](#)). For instance, liberal litigants have generally preferred the Ninth Circuit Court of Appeals, while conservatives are more likely to file suits in the Fifth Circuit Court of Appeals. This variation in petitions unsurprisingly contributes to the shift in the stream of petitions, as well as the Court’s grants mediated by the ideological distance between the Supreme Court and lower courts ([Cameron, Segal and Songer, 2000](#)).

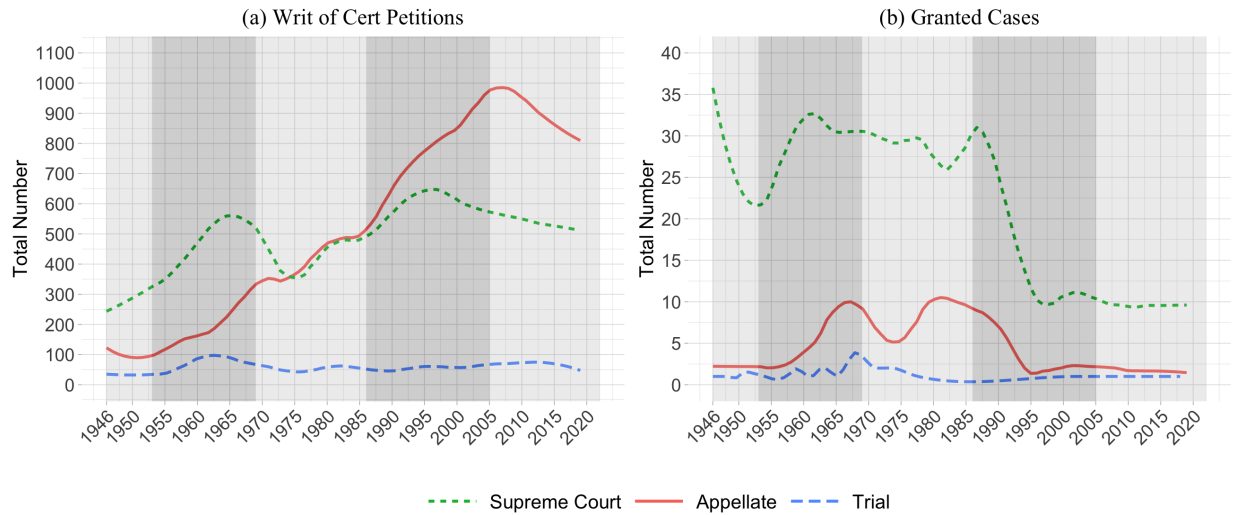
State Courts

In the post-War period, the Court maintained a comparatively small merits docket and received a limited number of state criminal judgements each year, setting the baseline against which later expansions are judged. Beginning in the 1950s, the rights revolution drives up the number of cert petitions originating from state courts ([Epp, 1998](#)). The Warren Court’s

¹⁰We undertake a limited test of this notion by evaluating the impact of ideological distance between the Supreme Court and lower courts on the rate of petitions filed and granted. See results and discussion in Appendix C.

(1953–1969) expansion of criminal procedure protections (e.g., Mapp, Gideon, Miranda) produced a surge of direct review from state courts, particularly for criminal defendants. This is evident in the surge observed through the 1950-60s—for both appellate and state supreme courts—in Panel (a) of Figure 4. Contemporary and retrospective overviews emphasize that the Warren Court dramatically expanded the federally protected constitutional rights of state criminal defendants, which necessarily channeled a large share of the Court’s attention to state-court decisions (Pye, 1968).

Figure 4: State Courts, 1946-2019



Note: Shading categorizes the year variable into courts by Chief Justice: Fred M. Vinson (1946-1953), Earl Warren (1953-1969), Warren E. Burger (1969-1986), William H. Rehnquist (1986-2005), John Roberts (2005-incumbent).

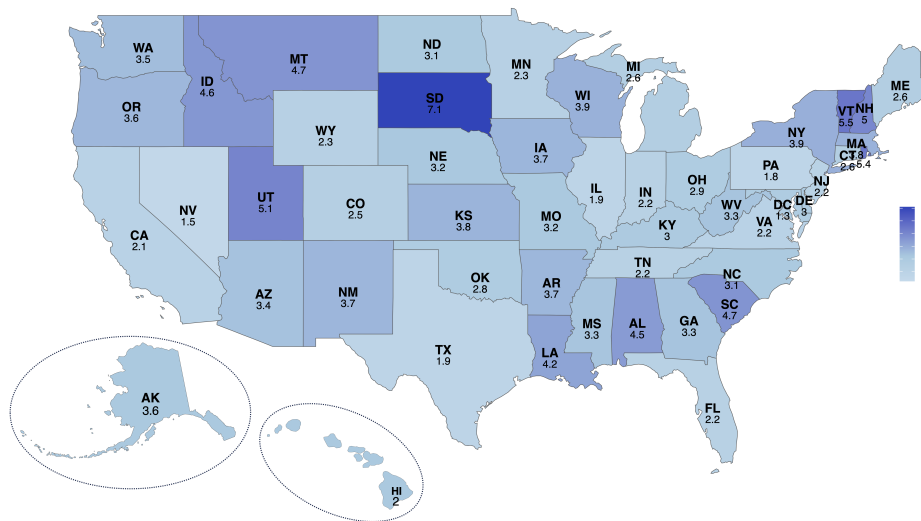
In the early 1970s, the conscious expansion of the Court’s docket, undertaken in part to preserve room for civil rights cases while also addressing other federal law areas, helped sustain substantial review of state decisions in the early years of the Burger Court (Hellman, 1978). Despite a slight reduction in state filing mid-1970s, which could be attributed to Justice Brennan’s 1977 call for “New Judicial Federalism,”¹¹ the Court adopted the rule, where absent a clear indication that a state decision rests on adequate and independent state grounds, the US Supreme Court presumes a federal basis and may review. This doctrinal move re-opened review channels for some state-court decisions that were ambiguous, producing countervailing pressure toward more grants from state courts in the mid-1980s (Hellman, 1978).

¹¹Justice Brennan’s call for state courts to rely on independent state constitutional grounds gave state high courts a pathway to insulate their rulings from US Supreme Court review, which could explain the slight reduction in both filings and grants from state courts when opinions were clearly pegged to state law (Brennan, 1977).

As Figure 4 shows, the 1980s witnessed a sharp increase in petitions from state appellate courts, even though the overwhelming majority of state-origin cases granted review continued to come from state supreme courts (Panel (b)). This divergence became especially pronounced as the Court’s plenary docket began to contract after 1986 while cert petitions from both state appellate and state supreme courts kept rising. A central reason was the Judiciary Act of 1988, which effectively eliminated most of the Court’s remaining mandatory appellate jurisdiction and converted many state-level federal-question appeals into discretionary petitions for certiorari. This jurisdictional shift increased the number of state-origin petitions entering the cert pool while simultaneously contributing to the sharp decline in state supreme court cases on the plenary docket beginning in the early 1990s, as shown in Panel (b) of Figure 4.

Beginning in the late 1990 to early 2000s, court observers have noted—as shown in Figure 4—that petitions from state appellate and supreme courts begin to experience a modest cool down and eventually a drop. Associated with this decrease is likely a marginal reduction in the average number of state supreme court decisions producing full judicial opinions between 1995 and 2010 (Hall and Windett, 2013), a factor that significantly influences the probability of certiorari petitions being filed and granted (Black and Boyd, 2013).

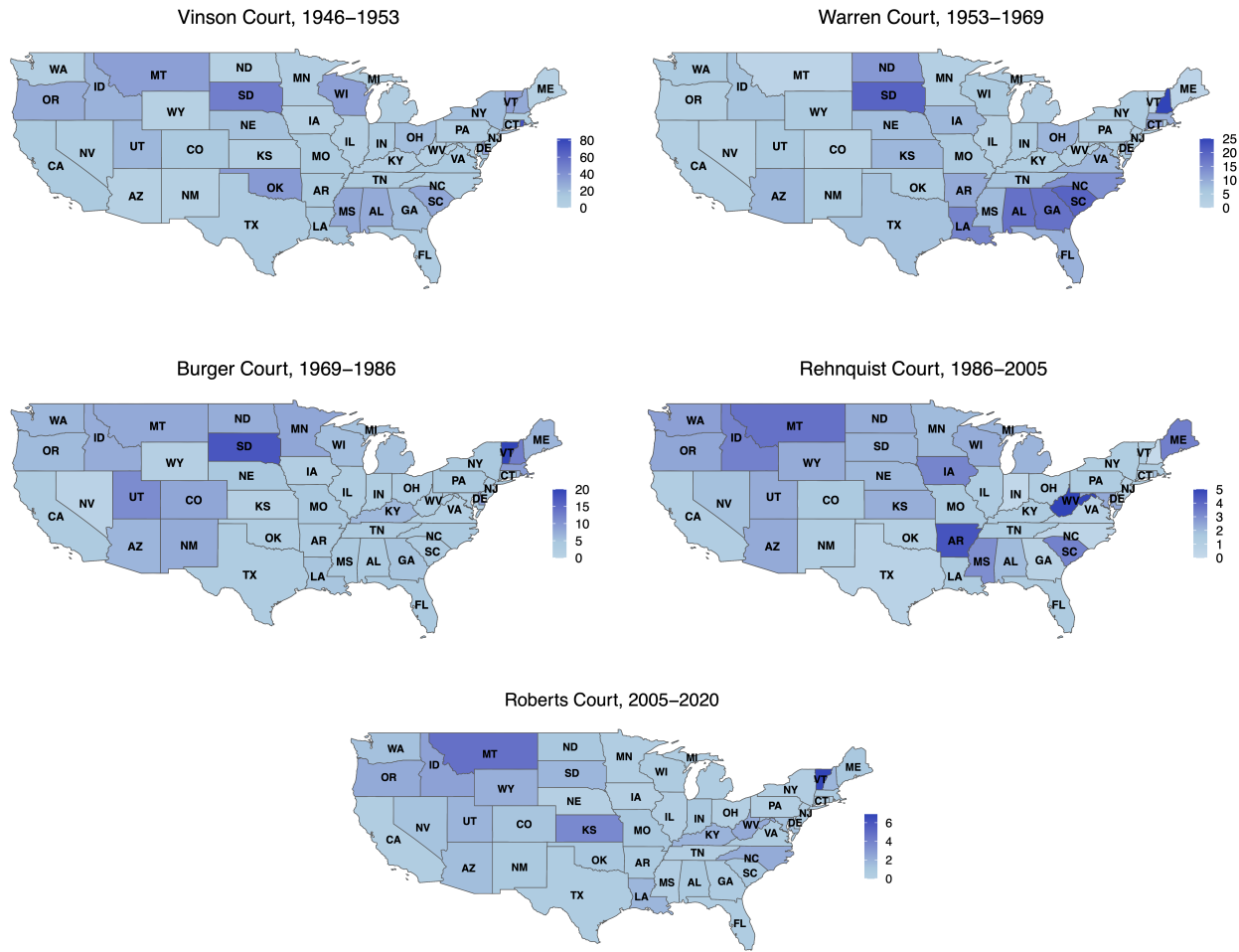
Figure 5: Percentage of Cert Petition to Case by State, 1946-2019



Similar to the grant rates among the US Circuit Courts of Appeal, there is some variation in the grant rate per individual state, as shown in Figure 5. The rate of cert petitions granted ranges between 1% and 7%, excluding US territories. In the upper bound, we find states including South Dakota, Vermont, Montana, Utah, New Hampshire, and Idaho, which have a case-to-petition-ratio twice as much as most other states. This suggests that in cases coming from state courts, beyond these few states with high rates, the Court’s plenary docket

is better at proportionally representing the various disputes across the country (see correlation between petitions filed and granted by state origin in Appendix B). However, the slight divergence we observe may also be an instance of the type of cases most likely to emerge in each state in different eras.

Figure 6: States Ratio of Cases to Petitions by Court



Another noticeable trend is the drop or leveling-off in the volume of cert petitions during transition periods between chief justices. While further inquiry is needed, it may be that legal activists go through a cooling period until they can ascertain the type of Court each chief justice will preside over before moving forward with petitions.¹² To explore this variation, we expand our review to a dynamic overtime analysis of cert petitions originating from state courts. Figure 6 shows that the trends observed in the aggregate view hold, with some

¹²A cert petition has to be filed within 90 days from the decision of the lower court—with the possibility of getting an extension to 150 days—but this does not preclude activists from timing their cases accordingly or pursuing a future case that allows them to ascertain the Court’s direction.

caveats. The states that have a high case to petition ratio vary over time. South Dakota, Montana, and the District of Columbia have grant rates up to 80% during the Vinson Court; and about 25% for South Dakota, North Dakota, and the block of Southern states during the Warren Court; with similar rates for South Dakota in addition to Utah and Vermont during the Burger Court. Although we see a drop in the overall grant rate beginning in the 1980s, we observe grant rates of 5% for Arkansas, West Virginia, Maine and, Montana during the Rehnquist Court, and Vermont, Kansas, and Montana during the Roberts Court.

While it is difficult to narrow the precise mechanism driving these patterns given case- and justice-specific factors shaping cert grants, we believe that at a macro-level, a combination of geography-based issue areas and time are at play. For instance, some of the cases coming from Montana and South Dakota in the earlier years of our data involve federalism and tribal questions, including *Baldwin v. Fish & Game Commission of Montana*, 436 US 371 (1978). During the Warren Court, a concentration of cases from southern states is consistent with a focus on solving questions on criminal procedure, and the high grant rate for *in forma pauperis* (IFP) petitioners. It is evident that the supply of petitions is not constant and potentially speaks to strategic behavior by legal activists or the justices themselves during the writ of cert process.

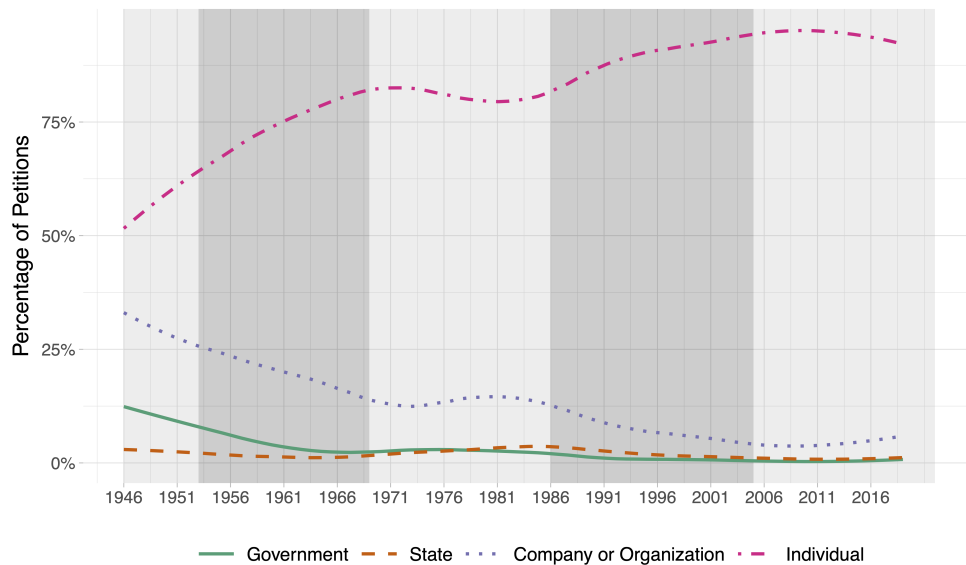
Bringing the federal and state origin stories together, the throughline is that institutional source shapes the menu of cert-worthy questions and the Court’s willingness to spend scarce plenary slots, while those same forces condition the incentives of would-be petitioners. The next section shifts our focus from where cases originate to who is doing the filing—how organizational capacity and repeat-player advantages (OSG, state SGs, the elite Supreme Court bar), alongside resource constraints and access regimes (IFP), translate these federal-versus-state institutional landscapes into observable filing volumes and grant probabilities.

The Petitioning Party

Petitioning parties play an important role in shaping the US Supreme Court’s docket. In order to reflect the general status of those filing cert petitions, the litigants are sorted into four categories, ordered by their status, institutional capacity, and access to resources, following the classification by [Songer, Sheehan and Haire \(1999\)](#). From strongest to weakest, we start with the federal government at the top, followed by state/local governments, businesses/organizations, and individuals last. As shown in [Figure 7](#), there is wide variation in the level of participation between the different types of petitioners seeking review.

The vast majority of cert petitions are filed by individuals, which exhibit a constant upward trend through the studied period. The first substantial increase takes place between

Figure 7: Percentage of Petitioner Type from Total Cert Petitions Filed, 1946-2019

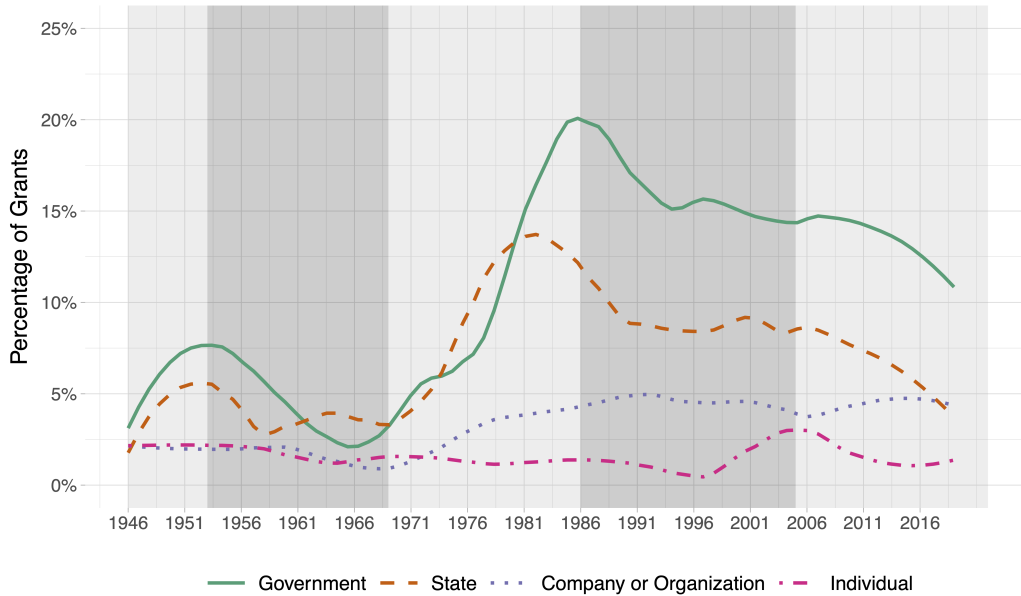


Note: Shading categorizes the year variable into courts by Chief justice: Fred M. Vinson (1946-1953), Earl Warren (1953-1969), Warren E. Burger (1969-1986), William H. Rehnquist (1986-2005), John Roberts (2005-incumbent).

the mid-1940s and mid-1960s, with a drop during the Burger Court (1969-1986), followed by another significant increase between 1986-2006, with another drop beginning around 2010. Notably, these shifts perfectly align with the leadership of chief justices, suggesting that the rate of cert petitions filed by individuals could be shaped by perceptions of how the Court is likely to treat different issues. As shown in Figure 8, petitions by individuals maintain a high grant rate of approximately 2.5%, with slight declines towards the mid-1960s, and remain low during the Burger Court and the first half of Rehnquist’s Court, with a sharp increase in the second half, up until the beginning of the Roberts Court, where the grant rate begins to drop again. This association between court and the behavior of litigants may be most true during the Warren Court, given its known receptiveness towards individual petitioners, specifically those filed *in forma pauperis* (IFP), which make up the majority of individual petitions (Widner and Gunderson, 2024, p. 35).

As a baseline, the Court’s IFP docket is large and distinct. For example, the Court’s own year-end report shows that in the 2005 term the Court received 8,521 filings, 6,846 of which were IFPs (approximately 80% of all filings). This is consistent with the long-run pattern of IFP shares, as shown in Figure 9. Empirical work and Court commentary consistently show that the IFP docket is heavily composed of criminal, habeas, and prisoner civil-rights matters and that the Court treats IFP matters as a recognizably separate stream (Watson, 2006). Fluctuations in the rate of these petitions can also be associated with expanding statutory access for indigent litigants at the turn of the 20th century, followed by several landmark

Figure 8: Percentage of Cert Grant per Petitioner Type, 1946–2019



Note: Shading categorizes the year variable into courts by Chief Justice: Fred M. Vinson (1946-1953), Earl Warren (1953-1969), Warren E. Burger (1969-1986), William H. Rehnquist (1986-2005), John Roberts (2005-incumbent).

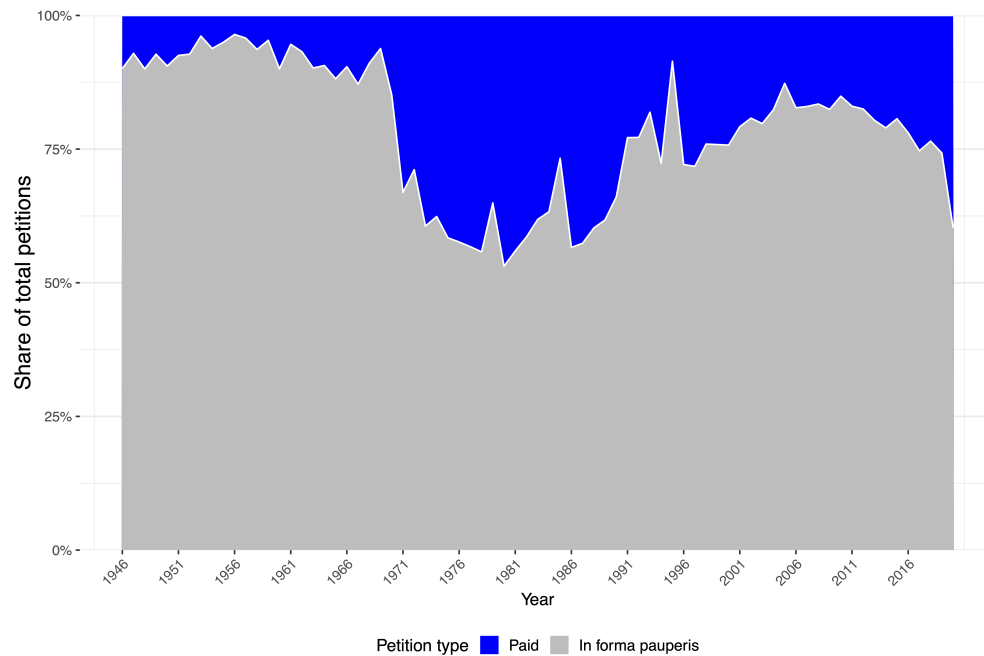
Supreme Court decisions that lowered the barriers for filing IFP and pro se petitions.¹³

Following the Warren Court expansion, doctrinal cutback slowed the rate of habeas driven cert petitions by individuals, consistent with the dip in Figure 7 between 1971-1981. During this period, through various decisions, the Court also restricted federal habeas review by excluding many Fourth Amendment claims, tightening procedural default (*Stone v. Powell*, 1976), and further limiting relief on collateral review (*Wainwright v. Sykes*, 1977). This doctrinal retrenchment towards habeas petitions is likely associated with the decrease in petitions by individuals, as well as grant rates, during the above-mentioned period.

Other factors may also contribute to the change in the rate of individual petitions, including broader access to legal resources for low-income individuals, increased public awareness of the ability to file cert petitions, and potentially, shifts in the types of cases stemming from lower courts. Despite the establishment of structural or policy limits on indigent and *pro se* petitioners, the incarceration boom of the late 1970s into the 1990s could explain the second surge in petitions by individuals. A 700% rise in the prison population between 1972 to 2009—with a modest decline thereafter (Ghandnoosh, 2020), coincides with large run-ups

¹³In 1892, Congress created a federal *in forma pauperis* pathway and, crucially, extended it to appeals by 1910. The 1948 Judicial Code revision formalized fee-setting authority and recodified IFP practice within Title 28, helping stabilize the mechanics for indigent filings. In addition, several landmark decisions—*Ex parte Hull* (1942), *Cochran v. Kansas* (1942), *Brown v. Allen* (1953), and *Fay v. Noia* (1963)—enabled greater access for individual petitions and legitimized prisoner petitions in federal courts.

Figure 9: Share of Paid vs. *in forma pauperis* Cert Petitions, 1946–2019



in prisoner petitions at earlier adjudicatory stages (district and circuit courts). This constitutes a much bigger base of potential litigants, holding other costs constant, that would raise the volume of IFP petitions.

By volume of petitions, those filed by businesses/organizations follow the individual category (see Figure 7). In contrast to individuals, petitions by businesses are marked by a sharp decline during the Warren Court, followed by a more steady decline over the studied period. In the 1940s, companies and organizations make up approximately 20% of the petitions filed, then declining to about 12% by the mid-1960s. The volume of petitions by these entities remains steady throughout the 1970s and 1980s, followed by another decline to a current rate of about 5%.

This downward trajectory reflects the Warren Court’s agenda displacement. Empirical work on the Court’s plenary docket shows that across the 1960s, civil-rights/civil-liberties questions steadily displaced other categories of federal law on the merits docket, which size remained unchanged for most of the period. As those issues crowded out “general federal law” (which includes much business and regulatory litigation), expected grant rates for business petitions plausibly fell, rationally depressing corporate filings at the cert stage (Hellman, 1978), consistent with grant rates for businesses/organizations in Figure 8. In part, driven by this crowd-out effect, the Burger Court expanded the plenary docket in 1971 to almost double that of the merits cases, which increases the grant rates for these entities from 1% to almost 5%. This would create space for non-civil-rights cases, which should raise expected

grants for business litigants and, in turn, increase corporate cert filings.

The creation of the US Court of Appeals for the Federal Circuit in 1982 centralized patent appeals, leading to fewer inter-circuit conflicts—one of the most reliable cert cues (Black and Owens, 2012). This, in addition to the removal of the Court’s mandatory appeals jurisdiction in 1988, partially explains the decline in business petitions beginning in the 1980s. Narechania’s (2022) “patent puzzle” shows how the lack of field splits reshaped cert dynamics in patents. In addition, driven in part by this change in the Court’s jurisdiction, the justices decided far fewer cases per term beginning in the second half of the Rehnquist Court (Owens and Simon, 2012). A smaller merits capacity filters upstream to lower expected success and therefore fewer business petitions at the margin. Lastly, from 2008 onwards, securities class actions surged around the financial crisis, increasing the pipeline of appellate securities disputes from which cert petitions could arise. Moreover, Lazarus (2008) documents how a small cadre of expert advocates, with the expansion of the Supreme Court bar—disproportionately representing corporate clients—achieved higher grant rates and actively shaped the petition pipeline, especially from the mid-2000s forward. This kind of institutional change increases the quality and volume of business cert petitions.¹⁴

The volume of petitions by state governments and the US government follow a similar trend, with varying proportions overtime. The same Warren-era docket displacement (toward civil rights/liberties) reduced the expected payoff for many regulatory or business petitions that the states or US might otherwise have filed. At the same time, the OSG’s traditional role includes self-restrained petitioning—the office files only in a small fraction of government losses, prioritizing institutional interests and credibility—so when expected grants fall, the OSG reduces filings rather than “spray and pray” (Hellman, 1978). Moreover, until 1988, several federal government matters reached the Court by appeal of right, reducing the need to petition in key categories.

When the Court increases plenary throughput, states and the OSG can justify more petitions (and more recommendations to grant in private cases) because grant chances improve at the margin. This is consistent with our observed slight increase in petition volume for states and the US government in Figure 7, and the sharp increase in grants, going from approximately 3% for both in 1969 to an all time high of 13% for states in 1982, and 20% for the US in 1986. As the Court began to reduce its docket, the OSG reduced its own cert requests by more than 70%, filing in the order of about 15 petitions per term by the 2000s (Cordray and Cordray, 2010). A similar pattern is observed for state filings and

¹⁴It is possible that CAFA (2005), with the shift of large multistate class actions to federal court and increased federal class-action activity, also contributed to an increase in the pool of federal appellate decisions implicating corporate defendants and potential cert filings.

grants—classic supply-side self-selection in response to falling expected returns.

The justices have also become more reliant on the Call for the Views of the Solicitor General (CVSG). Empirical work shows that a cert petition is much more likely to be granted after a CVSG—the Court agrees with the SG in more than half of the cases (Thompson and Wachtell, 2009). This channel allows the United States to steer the agenda without always filing as petitioner, reducing the raw number of OSG petitions even as its influence rises. Post-2000s, the Court has continued to follow the OSG’s cert-stage recommendations at striking rates (overall and especially in patent cases), reinforcing the incentive for the United States to engage more assertively where it sees national uniformity stakes (Gugliuzza and Koivula, 2023). This is consistent with the stability in cert filings by state and US governments observed in our data.

The decline in the US government’s role as a petitioner in more recent decades corresponds to an increased selectivity in pursuing certiorari and a shift in the Court’s preferences, such as favoring cases with broader doctrinal significance over those narrowly impacting government policy. This interpretation aligns with broader themes in judicial behavior and litigation strategy, suggesting that the changing landscape of Supreme Court litigation affects institutional actors like states and the federal government, as much as private litigants.

Taken together, the patterns in Figures 7 and 8 make clear that who petitions the Court is a first-order determinant of the petition stream the justices confront. Individuals—disproportionately filing *in forma pauperis*—supply the vast majority of petitions and display pronounced era-linked surges and retrenchments, while organizational and governmental filers contribute more selectively in ways that track shifting institutional incentives and perceived payoffs. These petitioner-specific regularities do not merely diversify the docket, they structure the selection environment the Court can audit, with volume, capacity, and status advantages jointly shaping both baseline access and observed grant propensities. Conceptually, then, any account of agenda-setting must model the decision to file alongside the decision to grant, treating shocks to the filing environment (doctrine, jurisdiction, and professionalization) as causal, not incidental, features of cert dynamics.

The Supply-Side Framework

This research advances our understanding of the US Supreme Court’s agenda-setting process by emphasizing the critical, yet often overlooked, role of the supply of cert petitions in shaping the Court’s docket. Our findings show that the Supreme Court’s agenda is not simply the product of the justices’ preferences applied to a fixed set of disputes. Rather, it emerges from a dynamic petition environment that varies across geography, time, institutional source,

and petitioner identity.

By assembling the complete universe of certiorari petitions since 1946 and linking them to merits-stage attributes, we uncover a system in which the Court’s choices are continually conditioned by where disputes arise, who brings them, and when structural shocks alter the cost-benefit calculus of filing. Three empirical regularities emerge. First, the origin of the petitions matters. The uneven distribution of petitions between federal courts of appeal and state courts is mirrored—though not mechanically—in the merits docket, with notable shifts across different eras. Second, petitioner status matters. While individuals account for the majority of filings, they receive the lowest grant rates. In contrast, institutional actors such as the US and state governments enjoy significantly higher success rates, reflecting structural advantages in resources, expertise, and credibility—though they move with era-specific shocks. Third, capacity and professionalization matters. The sharp increase in output from lower courts coupled with the rise of a specialized Supreme Court bar has intensified selection pressures, even as the Court’s merits docket has contracted.

These patterns yield clear theoretical implications. Models that focus exclusively on demand-side cues, including legal importance, conflict, or ideology, risk conflating the Court’s preferences with the availability of vehicles that exhibit those cues. The petition pool is neither random nor static; it is shaped by heterogeneous regional dockets (e.g., immigration, environmental, or federalism clusters), evolving jurisdictional and administrative regimes, and the professionalization of Supreme Court advocacy. Recognizing that heterogeneity—across federal and state pipelines, as well as petitioner types—clarifies how the structure of the petition pool conditions which issues reach the Court, when conflicts mature, and how doctrinal questions surface for review.

Overall, this research provides a foundational framework for understanding the supply-side dynamics of the Supreme Court’s certiorari process. Substantively, the supply-side lens reframes several familiar debates. Apparent “under-selection” of state-origin petitions, for example, reflects not only justices’ preferences but also doctrines and drafting practices that shape reviewability and steer many state disputes to summary correction rather than argument. Similarly, fluctuations in federal-origin grants track changes in lower-court pipelines and case types (not just shifts in cert policy). In short, the Court’s discretionary power is exercised within an uneven petition environment, not above it.

In sum, our findings suggest that to understand what the Supreme Court *decides*, we must first understand what the Supreme Court *chooses from*. Treating shocks to the filing environment—across regions, institutions, and petitioner types—as causal inputs rather than background noise yields a more complete and accurate account of agenda-setting in the United States Supreme Court. Methodologically, our contribution is an infrastructure for

studying agenda-setting as a two-stage process: the decision to file and the decision to grant. This dataset creates a foundation for designs that, i) treat filing as endogenous to doctrine, geography, and organizational capacity, and ii) separate composition effects in the pool from selection effects at conference. We expect future research to build on this work by exploring the interactions between supply-side patterns and specific issue areas, the evolving role of legal advocacy, and the potential implications for access to justice and legal equity in the highest court of the United States.

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