# Ideological Cues, Partisanship, and Prejudice Against LGBTQ Judges

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**Abstract**

How does the gender and sexual identity of a prospective judge shape public support for their nomination? We build upon recent scholarship on instrumental inclusivity and argue that, after accounting for nominee ideology, Americans of all partisan stripes will penalize LGBTQ nominees. Using a conjoint experiment, we randomly vary a prospective Biden U.S. Supreme Court nominee's gender and sexual identity. Crucially, we also randomize the nominee's ideology, enabling us to disentangle LGBTQ identity from the ideological signal it sends and differentiate between genuine and instrumental support for LGBTQ nominees. Contrary to recent findings suggesting that Democrats reward minority judges, we find that respondents from both parties penalize LGBTQ nominees. The magnitude of these effects—roughly 14 percentage points for transgender nominees and 8 percentage points for gay or lesbian nominees—is considerable and second only to shared partisanship. Our study underscores that ideological alignment does not necessarily foster genuine inclusivity for LGBTQ individuals and highlights the persistent challenges of representation for marginalized groups in an era of polarized judicial nominations.

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(excluding figures, tables, references, and appendices)

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The American judiciary has played an active and critical role in one of the most contentious areas of policymaking in contemporary American politics: the promotion and restriction of LGBTQ rights (Bailey et al. 2025). At the same time, the demographic characteristics of judicial nominees, including gender and sexual identity, have gained greater political attention.[1] These traits allow politicians to appeal to core political constituencies and mobilize support for nominees (Kaslovsky, Rogowski, and Stone 2021), shape confirmation hearings (Boyd, Collins, and Ringhand 2025), and influence the substantive decisions courts make on issues important to underrepresented groups (Boyd, Epstein, and Martin 2010; Kastellec 2013).

A key player in the nomination and confirmation process is the American public. Public attitudes toward nominees shape how politicians behave on judicial nominations (Kastellec, Lax, and Phillips 2010) and impact how Americans evaluate politicians (Bass, Cameron, and Kastellec 2022) and the judiciary as an institution (Glick 2023). In this way, public attitudes toward nominees shape the choices of presidents and senators and thus determine the descriptive traits of judges who end up on the bench.

In this study, we focus on how the gender and sexual identity of prospective judicial nominees impacts their public support, an area largely overlooked in previous research. A pioneering study by Bracic et al. (2023) finds that Democrats are more trusting of gay than straight judges, while Republicans exhibit the opposite pattern. Consistent with research on LGBTQ candidates (Jones and Brewer 2019; Magni and Reynolds 2021), Bracic et al. (2023) also find that both Republicans and Democrats view gay judges as more liberal than their straight counterparts. This study does not, however, disentangle perceptions of ideology from the sexuality of the judge and thus cannot speak to an important theoretical discussion in the study of attitudes toward LGBTQ politics: whether individuals *genuinely* support LGBTQ politicians or whether their identity provides an *instrumental* reason to do so (Kwon, Scarborough, and Taylor 2023;

[1]For instance, 5.1 percent (12 total, a record) of President Biden's nominees were LGBTQ; the American LGBTQ population is approximately 7.6 percent (Chavez and Choi 2024; Raymond 2024).

Turnbull-Dugarte and López Ortega 2024).

We build upon scholarship of instrumental inclusivity (Turnbull-Dugarte and López Ortega 2024) to theorize that Democrats' support for LGBTQ judges is driven by ideological motivations (Sen 2017), revealing prejudice when ideological and partisan considerations are accounted for. To test this, we conduct a preregistered conjoint experiment to assess Americans' support for prospective Biden Supreme Court nominees who are lesbian, gay, or transgender. We randomize nominee ideology to isolate the independent effects of these traits.

Our results reveal a substantial penalty for LGBTQ nominees among Democrats and Republicans alike, with only shared partisanship with the nominee having a larger effect. Across all respondents, the penalty for transgender nominees (about 13.8 percentage points) is larger than for gay and lesbian nominees (8.1 p.p.); these penalties benchmark closely to the context of the U.S. House (Magni and Reynolds 2021). We thus find limited evidence of genuine support for LGBTQ judges after disentangling perceptions of ideology from the traits themselves. We also find a "double penalty" for gay and transgender nominees and that respondents penalize women LGBTQ nominees more than men, in line with scholarship on public reactions to politicians with intersectional minority identities (Crenshaw 1991; Hancock 2007; López Ortega and Radojevic 2024).

Our study makes a significant contribution to understanding prejudice against LGBTQ politicians, judges, and individuals. We extend the theoretical framework of instrumental support for marginalized groups beyond ethnicity and nationalism to partisanship and ideology (Kwon, Scarborough, and Taylor 2023; Sen 2017; Turnbull-Dugarte and López Ortega 2024), revealing a sizable and widespread bias against LGBTQ judges. Although we focus on attitudes toward judges, in the conclusion we consider how our argument about ideological instrumentality may apply to perceptions of other political figures, such as legislators and executives (Magni and Reynolds 2021; Thompson 2023), or policy areas such as adoption or education (Turnbull-Dugarte and López Ortega 2024).

## Instrumental Support for LGBTQ Judges

Despite decades of progress that has enhanced social acceptance of LGBTQ individuals and politicians (Abou-Chadi and Finnigan 2019; Ayoub 2015; Ayoub and Garretson 2017; Magni and Reynolds 2018), public prejudice remains prevalent (Magni and Reynolds 2021; Thompson 2023). A growing body of research attributes this persistent bias to the divide between political ideology and partisanship. In the United States, scholars find that Democrats and liberals tend to be more supportive of LGBTQ individuals, politicians, and judges, whereas Republicans and conservatives are more likely to express opposition (Bracic et al. 2023; Jones and Brewer 2019). Further, scholarship shows that LGBTQ identity signals a politician's liberal ideology (Bracic et al. 2023; Jones and Brewer 2019), much like other characteristics such as race (Harrison, Michelson, and Perry 2024; Sen 2017). These dynamics raise an important theoretical question: To what extent are liberals *genuinely* supportive of LGBTQ judges versus viewing their identity as an *instrumental* factor to secure policy representation (Turnbull-Dugarte and López Ortega 2024)?

Identifying whether support for LGBTQ individuals is instrumental or genuine is crucial, as instrumental support is opportunistic and conditional, offering little in terms of reducing the persistence of LGBTQ prejudice. In their groundbreaking study, Turnbull-Dugarte and López Ortega (2024) demonstrate that conservative and nationalistic individuals opposed to immigration strategically adopt pro-LGBTQ attitudes to align with their co-ethnic in-group. We argue that this instrumental inclusivity theory extends beyond right-wing homonationalism to left-wing support for LGBTQ judges. In short, what may appear as growing social acceptance of LGBTQ issues may be driven by instrumental liberalism.

Citizens have policy preferences and should be willing to align themselves with ideological in-groups. Left-leaning individuals have a strong incentive to strategically support LGBTQ judges, as doing so can advance liberal policy outcomes. Consequently, when ideological instrumental

incentives are accounted for, liberals may not be as supportive of LGBTQ politicians and judges as existing studies suggest. Teasing out ideological cues from LGBTQ identity is thus important for assessing the independent effects of gender and sexual identity.

Scholarship on the courts provides support for our argument. The public values judges who share their political affiliations (Bartels and Johnston 2012) and evaluates the courts through the lens of identity, such as judge race and gender (Ono and Zilis 2022; Sen 2017; Zilis 2021). These patterns parallel the finding of Bracic et al. (2023) for LGBTQ judges. When ideological cues are not isolated from gender and sexual identity, LGBTQ individuals are more likely to be considered liberal and thus in-group by left-leaning citizens and out-group by those on the right. This should bolster support for LGBTQ judges among liberals and decrease support among conservatives.

In contrast, after accounting for ideology and thus disentangling the effect of LGBTQ identity from its ideological signal, what should remain is the individual's attitudes toward LGBTQ traits themselves. Given extant prejudices that persist across partisan groups against LGBTQ individuals, we expect a penalty for judges with LGBTQ traits (Jones et al. 2018; Magni and Reynolds 2021; Thompson 2023). Existing scholarship also illustrates how racial prejudice exists and shapes the political behavior of individuals across the political spectrum (e.g., Hooghe and Dassonneville 2018; Krupnikov and Piston 2015).[2] These negative effects should appear stronger for transgender judges, when compared to gay judges, given the higher level of prejudice against these individuals (Lewis et al. 2017; Magni and Reynolds 2021). Moreover, individuals with multiple intersecting minority traits (Hancock 2007) can receive additional backlash (López Ortega and Radojevic 2024). As such, we expect stronger effects may emerge for LGBTQ judges with other minority traits.

Support for LGBTQ judges provides an ideal test case for the theory of instrumental ideological inclusivity, as the federal judicial nomination and confirmation process has become in-

[2]See Section F.1 for more discussion.

creasingly polarized along political lines. Developments such as the removal of the filibuster and President Obama's failed nomination of Merrick Garland exemplify this trend (Boyd, Lynch, and Madonna 2015; Cameron and Kastellec 2023). Public attitudes toward the judiciary have also grown more polarized (Levendusky et al. 2024), with elite cues playing a significant role in shaping these evaluations (Rogowski and Stone 2021). As with other institutions, Americans demand both policy and descriptive representation on the bench (Bartels and Johnston 2012; Kaslovsky, Rogowski, and Stone 2021; Scherer and Curry 2010). Given the parallels between judicial and electoral politics, our argument likely extends beyond judges to LGBTQ candidates more broadly.[3]

## Experimental Design

To estimate the effect of a Supreme Court nominee's gender and sexual identity on public evaluations, we employ a preregistered conjoint experiment.[4] The design presents respondents with a hypothetical profile of a Supreme Court nominee that randomly varies several nominee attributes, including LGBTQ identity and ideology. This design has three important methodological benefits. First, we control for a nominee's ideology, allowing us to isolate the independent effect of LGBTQ identity and, thus, test the extent to which Americans exhibit genuine support for these nominees. Second, it minimizes concerns about social desirability bias regarding attitudes toward LGBTQ individuals due to the presence of other traits apart from gender and sexual identity. Finally, this setup realistically reflects the information available to Americans when evaluating Court nominees and has been used to study attitudes toward prospective nominees (Rogowski and Stone 2021; Sen 2017).

We conducted our experiment using a sample of 1,249 American adult respondents on the

[3]However, the public also expects judges to prioritize legalistic principles (Rivero and Stone 2025); this distinguishes the judiciary from other institutions.

[4]See Section C for pre-analysis plan discussion.

CloudResearch Connect online platform from December 22, 2023, to January 4, 2024. To provide an accurate picture of the preferences of the American population, we employed a quota to match U.S. Census demographics on race, ethnicity, gender, and age. We also quota sampled on partisanship to ensure a sufficient number of Republicans and Democrats appear in our sample, with leaners coded as partisans in main analyses. We do not employ weighting in any analyses. Over 95 percent of respondents passed our attention check.

The setup of our design was straightforward. Respondents were presented with a hypothetical profile of a Biden Supreme Court nominee and then evaluated their support for the nominee. Respondents completed two nominee evaluations, one at a time; our analyses cluster standard errors at the respondent level. Using Biden as the nominating president allows us to hold constant respondent views of the nominating president's ideology. The profiles contained several randomized demographic characteristics and personal traits that are common points of discussion during nominations, including age, race/ethnicity, current job, and law school background. Half of respondents also received one of four statements endorsing the nominee from Biden. We present these varying traits in Supplementary Materials Table A.1.

Our main treatment variables are the nominee's gender identity (man, woman, transgender man, or transgender woman) and sexual orientation (straight or gay/lesbian). Because the nominee's gender and sexual identities may cue their political ideology, we also randomized the nominee's ideology (very liberal, liberal, somewhat liberal, or moderate); such a range reflects the plausible spectrum of Democratic Supreme Court nominees. This allows us to estimate the impact of sexual and gender identity on respondent evaluations while holding ideology constant.

After reviewing a nominee profile, respondents rated their nominee support on a five-point scale, which we recode into a binary variable, with "strongly support" and "somewhat support" coded as 1 and other options as 0.[5] For additional survey information, see Appendix A.

[5]We asked "On a scale from strongly oppose to strongly support, where would you place your level of support for this nominee?" Response options were strongly oppose/somewhat oppose/neither oppose nor support/somewhat support/strongly support. Respondents who did not answer this question are dropped from analyses.

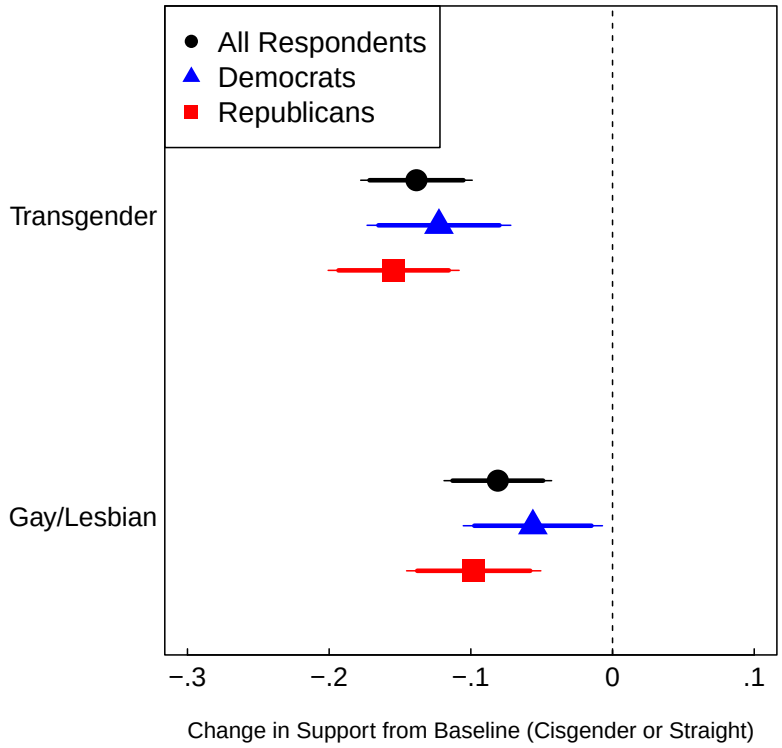
# Results

Figure 1 presents the average difference in binary support for nominees who are transgender or gay compared to their cisgender or straight counterparts, averaged across all other nominee characteristics (the Average Marginal Component Effect). We present separate effects for all respondents, Democrats, and Republicans. When averaging across all respondents, prospective nominees who identify as gay or lesbian experience an 8.1 percentage point ($p<0.001$) decrease in support compared to straight nominees, and transgender nominees face a 13.8 percentage point ($p<0.001$) decrease in comparison to cisgender nominees. Similar to previous studies, the negative effect observed for transgender individuals is significantly larger than that of gays and lesbians ($p=0.040$). These findings are robust across various alternative analyses (see Supplementary Material Section E for a full discussion). Our findings provide clear evidence that LGBTQ nominees receive less public support than their straight and cisgender counterparts, with transgender individuals facing the greatest backlash.

Crucially, we find consistently lower support for LGBTQ nominees across partisan groups. Although baseline support for Biden's prospective nominee is considerably higher among Democrats than Republicans (by 53.5 p.p.), the penalty for LGBTQ nominees is evident across all partisan groups. For instance, the decrease in support for transgender nominees is 15.4 percentage points ($p<0.001$) among Republicans and 12.3 percentage points ($p<0.001$) among Democrats. These treatment effects are not distinguishable from one another ($p=0.361$). Once we isolate ideological cues from gender and sexual identity, we uncover a consistent penalty for LGBTQ individuals across partisan lines (c.f. Bracic et al. 2023).

The magnitude of the negative treatment effects of gender and sexual identity is particularly noteworthy when juxtaposed with the results associated with other attributes (Supplementary Material Figure D.1). The only other attribute yielding statistically and substantively significant results comparable to gender and sexual identity is the nominee's law school. Judges who

**FIGURE 1:** All Partisans Penalize LGBTQ Supreme Court Nominees




*Note:* Estimated treatment effects (AMCE) of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight) on binary support for the nominee for all respondents, Democrats, and Republicans. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent. Leaners are coded as partisans. Full results available in Supplementary Material Figures D.1 and D.2.

graduated from non-top 100 schools received 12.3 percentage points ($p<0.001$) lower support in comparison to elite Ivy graduates. Strikingly, the effects of gender and sexual identity overshadow the effect of ideology. When disaggregating by partisanship (Supplementary Material Figure D.2), while Republican respondents favor moderate nominees over very liberal nominees by 14.0 percentage points ($p<0.001$), the effects of ideology for Democrats are indistinguishable from zero.

We also assess, first, whether candidates who are both gay and transgender face an additional penalty, and second, whether our findings differ for women and men nominees. Both analyses speak to how the public reacts to the intersection of multiple minority traits (Cassese 2019; Crenshaw 1991; Hancock 2007). To conduct the first analysis, we set "just gay or just transgender"

as the baseline category and assess how respondents differentially evaluate nominees with both (or neither) of these traits. For the second, we divide the sample based on nominee gender and conduct separate analyses for men and women nominees.

In Figure 2a, we illustrate that judges who are both transgender and gay pay a greater penalty (6.0 percentage point lower support, p=0.011) than judges with just one of those traits. In Figure 2b, we illustrate that the magnitude of the negative effect for both transgender and gay/lesbian status is larger for women (16.8 and 12.0 percentage points, respectively) than men (10.4 and 3.3, respectively); this difference is statistically significant for gay/lesbian (p=0.027) but not transgender (p=0.108). These findings highlight that, as in other political contexts, LGBTQ judicial nominees with intersectional identities face additional challenges in garnering public support.[6]

## Discussion and Conclusion

By extending recent scholarship on instrumental inclusivity beyond right-wing homonationalism to left-wing support for LGBTQ judges (Turnbull-Dugarte and López Ortega 2024), we demonstrate that, after accounting for the ideology of judges, both Democrats and Republicans discriminate against LGBTQ judicial nominees. This challenges the common assumption that left-leaning individuals and parties are inherently more tolerant toward gender and sexual minorities and underscores the need to distinguish between strategic and genuine support for marginalized groups.

We conclude with a consideration of three important implications of our study. First, we consider the bipartisan nature of our findings. Does this suggest that Democrats and liberals falsify a true dislike of LGBTQ individuals when publicly advocating for LGBTQ rights and inclusion? We are hesitant to draw this conclusion. We see an important theoretical distinc-

[6]When subsetting to cisgender, straight nominees (Figure E.10), women are viewed 6.9 p.p. more favorably than men (though we cautiously interpret this result as p=0.084). This aligns with findings on favorability towards women in conjoints (Schwarz and Coppock 2022) and suggests multiple minority traits intersect to penalize politicians in non-additive ways (Hancock 2007).

**FIGURE 2:** Intersectional Traits and Support for LGBTQ Nominees

**(a)** Double Penalty of Gay and Transgender **(b)** Greater Penalty for Women Nominees


*Note:* Left panel shows estimated treatment effects (AMCE) on binary support of judges who are transgender and gay/lesbian (bottom point) or judges who are cisgender and straight (top point) as compared to judges who are transgender or gay/lesbian (baseline). Right panel shows estimated treatment effects of men (top points) and women (bottom points) nominees who are gay and transgender. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent. Estimates pool all respondents. Full results available in Supplementary Material Figures D.3, D.4, and D.5.

tion between concealing one's true preferences due to fear of public sanction and instrumental support. Democrats and liberals may truthfully support LGBTQ rights and representation, but their support could be driven more by self-interest, such as advancing liberal policy outcomes, than by genuine altruistic acceptance. Nevertheless, future studies should assess these dynamics, especially as our conjoint design minimizes the potential for social desirability bias and thus our ability to study conditions under which preference falsification may emerge.

Second, we consider the generalizability of our findings. We focus on LGBTQ judges given the active role of the judiciary in shaping LGBTQ rights (Bailey et al. 2025), the role descriptive traits play in shaping judge behavior (Boyd, Epstein, and Martin 2010; Kastellec 2013), and the political importance to the public of contemporary judicial nominations (Bartels and Johnston

2012; Bass, Cameron, and Kastellec 2022). We expect that our theoretical framework of instrumental ideological inclusivity should largely apply to other politicians who require direct public approval, such as members of Congress and executives.[7] However, extending our theory to public support for specific policies—such as adoption, surrogacy, immigration, or education—may be more complex. In these contexts, the instrumental ideological incentives to elect a representative or confirm a judge to secure desired ideological policy are not present. More research is needed to disentangle the specific calculations at play in these contexts.

Finally, we highlight the challenges marginalized groups face in achieving representation within the judiciary and American political institutions, especially for nominees with intersecting minority traits. As most Americans are cisgender and straight, our results are in line with scholarship illustrating that Americans of all partisan stripes desire judges who share their descriptive traits (Kaslovsky, Rogowski, and Stone 2021; Scherer and Curry 2010). Our findings help explain the underrepresentation of LGBTQ individuals on the bench given the public opinion pressures politicians face on judicial nominations (Bass, Cameron, and Kastellec 2022). Like Bracic et al. (2023), we see our findings as illustrative that LGBTQ judges may seek to avoid public discussion of their identity to avoid potential backlash; in contrast, our theory and empirical approach highlights that this disincentive likely exists for potential nominees across the political spectrum. Nevertheless, Presidents Obama, Trump, and Biden have all nominated openly gay judges. This illustrates that LGBTQ jurists still have a viable pathway to the federal bench, though none of these were Supreme Court nominees—who command considerably greater scrutiny than lower court nominees—and presidents have entirely avoided nominating openly transgender judges. While diversifying the judiciary would likely enhance LGBTQ substantive representation, public resistance creates a challenging path for prospective LGBTQ judges.

[7] See Section F.2 for more discussion.

# Publishing Statements and Declarations

## Competing Interests Declaration

Competing interests: the authors declare none.

## Data Availability Statement

The authors will make publicly available all data and code necessary to replicate the analyses of the paper upon publication on Dataverse.

## Ethical Statement

The authors have reviewed the journal's publishing ethics policies and have endeavored to follow them in full.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The authors used institutional funds to conduct the survey in this paper. The financial sponsor played no role in the design, execution, analysis, interpretation of data, or writing of the study.

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# Supplementary Material

## Ideological Cues, Partisanship, and Prejudice Against LGBTQ Judges

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## Contents



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# A AAPOR-Required Disclosure Elements

### Data Source and Data Collection Strategy

We employ survey data collected via a survey we administered on the CloudResearch Connect online platform.

### Research Sponsor and Conductor

The research was sponsored by resources provided to one of the authors from their academic institution. The research was conducted by the authors.

### Measurement Tools/Instruments

The survey began with an informed consent screen.
Then, respondents were asked four factual Supreme Court knowledge questions:

- Do you know if the U.S. Supreme Court can declare an act of Congress unconstitutional, or does it not have this power?
  - Can declare an act unconstitutional/Cannot declare an act unconstitutional/Don't know
- Some judges in the U.S. are elected; others are appointed. Do you happen to know if the Justices of the U.S. Supreme Court are elected or appointed?
  - Elected/Appointed/Some are elected and some are appointed/Don't know
- Some judges in the U.S. serve for a set number of years; others serve a life term. Do you happen to know whether the Justices of the U.S. Supreme Court serve for a set number of years or whether they serve a life term?
  - Set number of years/ Life term/ Some serve a set number of years and some serve a life term/ Don't know
- Which of the following people does not currently serve on the U.S. Supreme Court?
  - Clarence Thomas/Samuel Alito/Anthony Kennedy/Elena Kagan/Sonia Sotomayor/John Roberts

Then, respondents were presented with an attention check that read as follows:

- What news people watch affects their judgment on many issues. However, in this question, we only want to test whether you pay attention to the questions. Hence, regardless of what you are interested in, please choose Economic News and Sports News.

– Political News/Local News/International News/Economic News/News Interviews/Investigative Journalism/Entertainment News/Technology News/Stock Market News/Sports News/All of the above/None of the above

Then, respondents were presented with the first hypothetical nominee profile. They received the following introductory prompt and the profile, where each nominee had one of the randomly assigned characteristics displayed in Table A.1 below apart from the statement from Biden, which was randomly assigned to be shown to only half of the respondents:

- Prompt: Suppose that next month, a vacancy arises on the U.S. Supreme Court and President Biden nominates the following individual to the Court:

**TABLE A.1:** Characteristics of Hypothetical Supreme Court Judges

| **Attributes** | **Values** |
|---|---|
| Age | (a) 45; (b) 55; (c) 65 |
| Race/Ethnicity | (a) Black; (b) Asian; (c) Hispanic |
| Law school | (a) Elite law school at an Ivy League university; (b) Well-regarded law school at a large public university; (c) Law school not ranked in the top 100 law schools |
| Current job | (a) U.S. district court judge; (b) Public defender; (c) Law professor at a top law school; (d) Corporate defense attorney |
| Political views | (a) Very liberal; (b) Liberal; (c) Somewhat liberal; (d) Moderate |
| Gender | (a) Man; (b) Transgender man; (c) Woman; (d) Transgender woman |
| Sexual orientation | (a) Straight; (b) Gay/lesbian |
| Statement from Biden (*Half of respondents*) | (a) "This nominee has an outstanding legal record and is well-qualified to serve on the federal judiciary."; (b) "This nominee will be a principled progressive voice on the federal judiciary."; (c) "This nominee will contribute to a diverse judiciary and make the federal judiciary look more like America."; (d) "This nominee will provide much-needed representation in the federal judiciary to a community historically underrepresented on the bench." |

*Note:* One value from each attribute was randomly assigned to respondents for each hypothetical judge, apart from the Biden statement, which was randomly assigned to half of the respondents. If respondents were randomized into receiving a judge with gay or lesbian sexual orientation, the word displayed matched the judge's gender identity.

Then, respondents were asked to evaluate their support for the nominee:

- On a scale from strongly oppose to strongly support, where would you place your level of support for this nominee?

  – Strongly oppose/somewhat oppose/neither oppose nor support/somewhat support/strongly support

Then, respondents were asked to evaluate the legitimacy of the judiciary if the nominee were to be on the Court. They were first presented with the following prompt:

- Suppose this nominee was confirmed and began serving as a judge on the U.S. Supreme Court. Please indicate whether you would agree or disagree with the following, keeping in mind your evaluation of the nominee:

Then, respondents answered five legitimacy questions. All response options were a five-point measure of agreement (Strongly agree/somewhat agree/neither agree nor disagree/somewhat disagree/strongly disagree) The wording of the Supreme Court legitimacy questions are as follows:

- If the U.S. Supreme Court started making a lot of decisions that most people disagree with, it might be better to do away with the Supreme Court altogether.
- I would trust the U.S. Supreme Court to make decisions that are right for the country as a whole.
- I would support removing judges from their position on the U.S. Supreme Court if they consistently made decisions at odds with what a majority of the people want.
- The U.S. Supreme Court will have become too mixed up in politics.
- The U.S. Supreme Court will have become too independent and should be seriously reined in.

Then, respondents received a second nominee profile. They received the following prompt:

- Now, suppose that next month, a vacancy arises on the U.S. Supreme Court and President Biden nominates the following individual to the Court:

The survey then proceeded in the same manner as described above.

Finally, respondents were asked to answer questions measuring their traits and demographic information:

- How much school or college have you completed?
  - Some high school, or less/High school graduate or GED/Some college, no 4-year degree/College graduate/Post-graduate degree
- Generally speaking, do you think of yourself as a Republican, Democrat, Independent, or something else?
  - Republican/Democrat/Independent/Other
    * If Republican: Would you call yourself a strong Republican, or not a very strong Republican?
      · Strong Republican/Not very strong Republican
    * If Democrat: Would you call yourself a strong Democrat, or not a very strong Democrat?
      · Strong Democrat/Not very strong Democrat

    * If Independent or Other: Do you think of yourself as closer to the Republican or Democratic party?
        · Republican/Democratic/Neither

- How would you describe your political views?
    - Very liberal/Somewhat liberal/Moderate/Somewhat conservative/Very conservative
- Which best describes your total annual household income? If you're not sure, give an estimate.
    - Less than $25,000/$25,000 to $50,000/$50,000 to $75,000/$75,000 to $100,000/$100,000 to $200,000/$200,000 or more
- Which best describes your race? (Select all that apply)
    - White/Black or African American/Hispanic or Latino/Asian/American Indian or Alaska Native/Native Hawaiian or Pacific Islander/Other
- What sex were you assigned at birth, on your original birth certificate?
    - Male/Female
- What is your current gender identity?
    - Man/Woman/Transgender man/Transgender woman/ Do not identify as man, woman, or transgender
- Do you think of yourself as:
    - Straight/Gay or lesbian/Bisexual/ Do not identify as straight, gay or lesbian, or bisexual

**Population Under Study**

Our study population is American adults; we drew our study's participants from the pool of American adults active on the CloudResearch Connect platform at the time of our survey.

**Methods Used to Generate and Recruit the Sample**

The sample of 1,250 respondents comes from the pool of American adults active on the CloudResearch Connect platform at the time of our survey. This is a non-probability sample. The platform is an opt-in platform. We employed the CloudResearch built-in census match template to quota-target respondents to mirror the makeup of the U.S. population on age, race, ethnicity, and gender. These led us to quota target 625 men and 625 women; 275 people aged 18-29, 325 aged 30-44, 325 aged 45-59, and 325 aged 60-99; 200 individuals of Hispanic origin and 1050 individuals of non-Hispanic origin; and 975 White respondents, 175 Black respondents,

and 100 respondents of other races. We also quota sampled based upon respondent political party to secure 500 Democrats, 500 Republicans, and 250 other respondents. Respondents were paid $1.20 for completing the survey. Payment is provided through the CloudResearch platform; respondents can withdraw their earnings via PayPal, bank transfer, or Amazon gift cards.

### Method(s) and Mode(s) of Data Collection

All survey responses were gathered on the web using Qualtrics. All surveys were conducted in English. The average survey duration was 5 minutes and 58 seconds; the median survey duration was 5 minutes.

### Dates of Data Collection

Data were collected from December 22, 2023 to January 4, 2024.

### Sample Size

We gathered survey responses from 1,250 respondents. After removing responses from a respondent who took the survey twice (i.e., we had 1,251 responses), we have 1,249 respondents and responses.

### Whether and How the Data Were Weighted

We do not use weights in our analyses.

### How the Data Were Processed and Procedures to Ensure Data Quality

Our survey included an attention check. Per our pre-analysis plan, we do not exclude respondents who fail the attention check from our main analysis, but in a robustness check we do exclude such respondents and show that our results are robust to their exclusion. We do not exclude respondents based upon completion time. The CloudResearch Connect platform regularly engages in respondent quality checks including conducting attention checks and ensuring users are not participating from multiple accounts.[‡‡] All survey responses record a participant's unique CloudResearch ID; this allows us to ensure that users were not completing the survey more than once (and to remove one respondent who did; see the above Sample Size section). All responses were provided using the instrument outlined above. We do not employ manual or automated coding of responses beyond what is detailed in the replication code for this study (e.g., there were no open-ended questions).

[‡‡]See the Hartman et al. (2023) CloudResearch white paper here: ttps://www.cloudresearch.com/introducing-connect-by-cloudresearch/.

### Screening Criteria and Process

The survey was available to American adult participants on the CloudResearch Connect platform whose characteristics met our quota characteristics as described above in the Methods Used to Generate and Recruit the Sample section at the time they were on the platform.

### Study Stimuli

There are no particular exhibits to report; we outline the full questionnaire and survey procedure in the Measurement Tools/Instruments section above.

### Dispositions or Response or Participation Rates

This study utilized a non-probability sample recruited through CloudResearch. 2.95 percent of respondents who initially accepted the invitation to take our survey did not complete it and 97.05 percent of respondents did complete it. However, because this is an online non-probability sample, the participation rate should not be interpreted as a response rate from a probability sample; this is a limitation of our sample.

### Sample Sizes

As discussed above, our full sample size included 1,250 respondents; after removing one respondent who took the survey twice, we have 1,249 respondents. Each respondent evaluated two nominee profiles; this means that we have 2,498 evaluations in our full sample. In our main analyses (Figure 1, Figure 2a, and Figure 2b), we employ our full sample. A small number of evaluations are dropped from these analyses if respondents did not answer the outcome question measuring support for the nominee (we have 2,494 evaluations where the respondent did answer this question). In various supplemental analyses and robustness checks, this full sample is occasionally subset: in Figure E.2 respondents who answered the middle "neither support nor oppose" option are dropped (resulting in 2,091 observations); in Figure E.6 we subset to evaluations of the first nominee profile only (resulting in 1,247 observations); in Figure E.7 we exclude respondents who failed our attention check (resulting in 2,430 observations); in Figure E.10 we subset to nominee profiles that are cisgender and straight (resulting in 634 observations); in Figure E.11 the outcome variable is an additive legitimacy index and we only employ respondents who answered all five legitimacy outcome questions that we use to create this index (resulting in 2,480 observations).

### Measurement and Model Specification

To replicate the variable creation and statistical modeling that generates the findings in the paper, please refer to the replication code for this study. The code allows for full variable creation and the replication of all analyses that appear in the main text and Supplementary Material.

**A General Statement Acknowledging Limitations of the Design and Data Collection**

We acknowledge limitations of our design and data collection. First, our respondents come from a non-probability online sample. Second, we ask respondents to consider hypothetical nominees under a particular presidency. Both limitations set possible scope conditions for the generalizability of our findings.

# B Survey Descriptive Statistics

**TABLE B.1:** Descriptive Statistics: CloudResearch Survey

| Category | Proportion | Category | Proportion |
|---|---|---|---|
| **Gender** | | **Education** | |
| Man | .496 | Some high school, or less | .006 |
| Woman | .495 | High school graduate or GED | .116 |
| Other | .007 | Some college, no 4-year degree | .299 |
| | | College graduate | .421 |
| | | Post-graduate degree | .155 |
| **Race** | | **Income** | |
| White | .655 | Less than $25,000 | .133 |
| Black | .127 | $25,000 to $50,000 | .244 |
| Hispanic or Latina/o | .127 | $50,000 to $75,000 | .229 |
| Asian/Native Hawaiian/Pacific Islander | .045 | $75,000 to $100,000 | .170 |
| Native American/Alaskan | .002 | $100,000 to $200,000 | .183 |
| Multiple racial groups | .031 | $200,000 or more | .036 |
| Other racial group | .003 | | |
| **Partisanship** | | **Ideology** | |
| Democrat | .486 | Very liberal | .159 |
| Republican | .421 | Somewhat liberal | .257 |
| Independent | .093 | Moderate | .203 |
| | | Somewhat conservative | .246 |
| | | Very conservative | .132 |
| **Sexuality** | | | |
| Straight | .890 | | |
| Gay, lesbian, or bisexual | .099 | | |
| Other | .010 | | |

*Note:* Cell entries indicate unweighted sample proportions for each demographic and political category. Proportions may not add to 1 due to rounding or non-response. Leaners are coded as partisans. $N$ = 1,249.

# C Discussion of Pre-Analysis Plan

Our pre-analysis plan is available at https://aspredicted.org/blind.php?x=ZPZ_K41. We pre-registered five specific hypotheses: three we find clear evidence for and two we do not find clear evidence for. In the discussion of Figure 1, we show that individuals react less favorably to LGBTQ judges than non-LGBTQ judges (in line with our H1) and less favorably to transgender than gay/lesbian judges (our H2). In the discussion of Figure 2a, we show evidence of a double penalty for transgender and gay/lesbian judges (our H3). However, in Figure 1 we do not find stronger effects for Republicans than other respondents (our H4). In Figure D.2, we show that messaging from partisan elites (Biden) has the directional effects we hypothesized (positive for copartisans and negative for outpartisans), but these effects are not statistically distinguishable from zero (our H5).

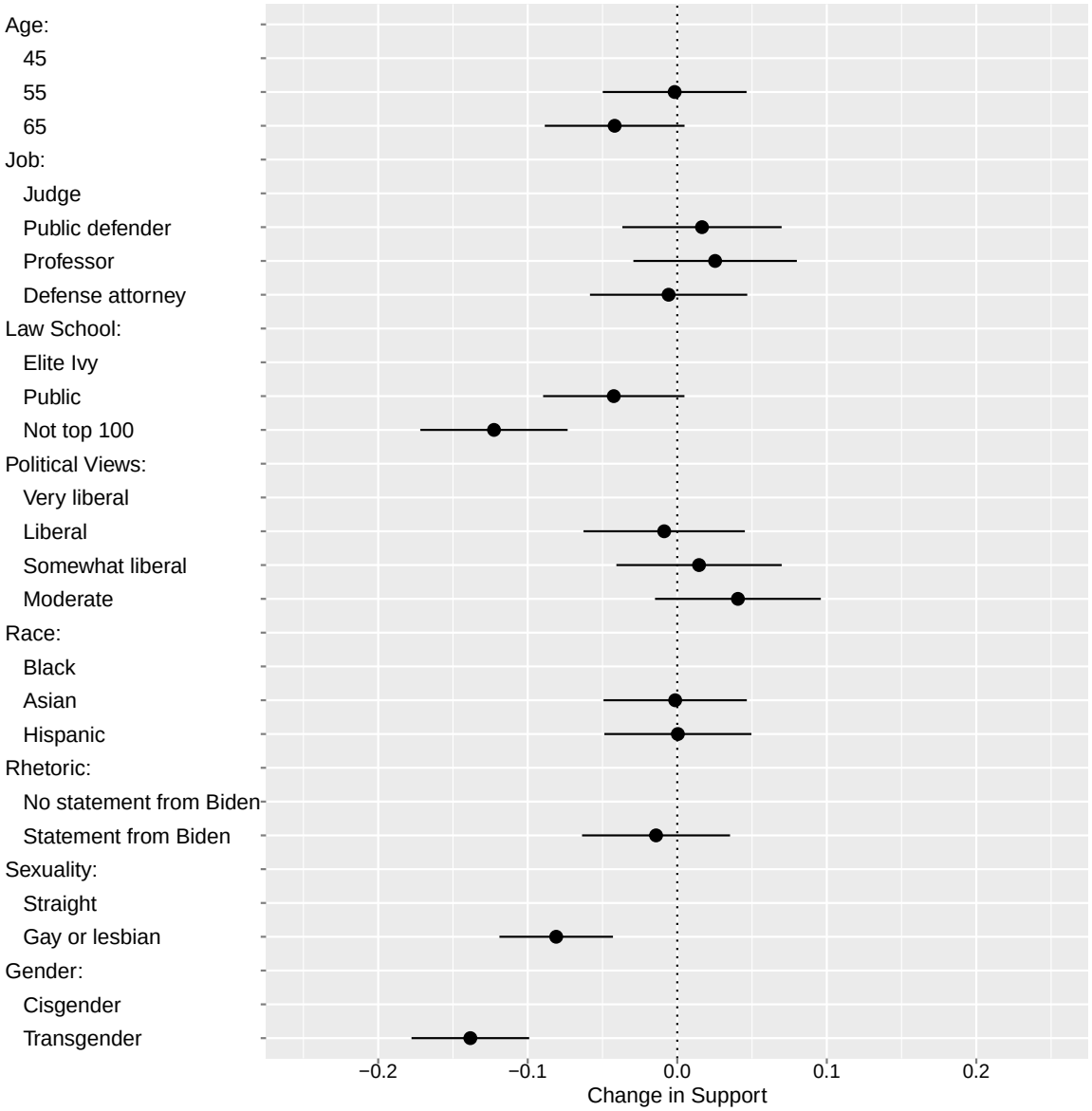
We conducted our survey as specified in the plan. We measure our variables as specified in the plan. We present the analyses discussed in the plan either in the main text or the Supplementary Material (see Supplementary Material Sections D and E) using the cjoint package in R.[§§] Additional analyses that do not appear in the pre-analysis plan were added based upon helpful feedback provided when circulating the paper.

[§§] Hainmueller J, Hopkins D, Yamamoto T (2014). "cjoint: Causal Inference in Conjoint Analysis: Understanding Multi-Dimensional Choices via Stated Preference Experiments." *Political Analysis* 22(1):1-30. R package version 2.1.1, https://CRAN.R-project.org/package=cjoint.

# D Full Empirical Results

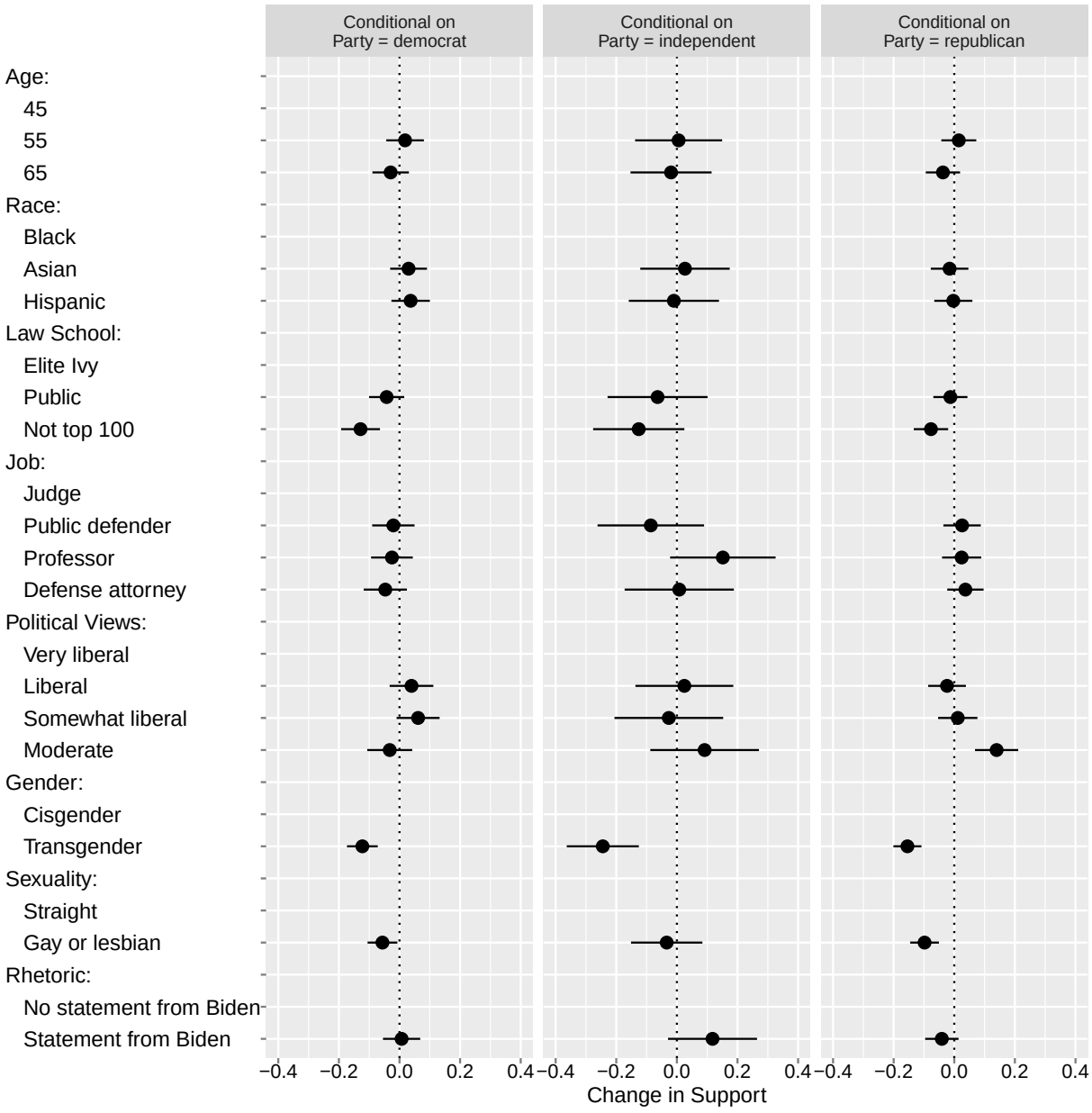
## D.1 Support Full Results

**FIGURE D.1:** Nominee Traits and Support for Supreme Court Nominees (Aggregate Results)




*Note:* Outcome is a binary measure of support for Supreme Court nominees. Bars represent the Average Marginal Component Effect with 95 percent confidence intervals for each of the varying attributes in our conjoint analysis; standard errors clustered by respondent.

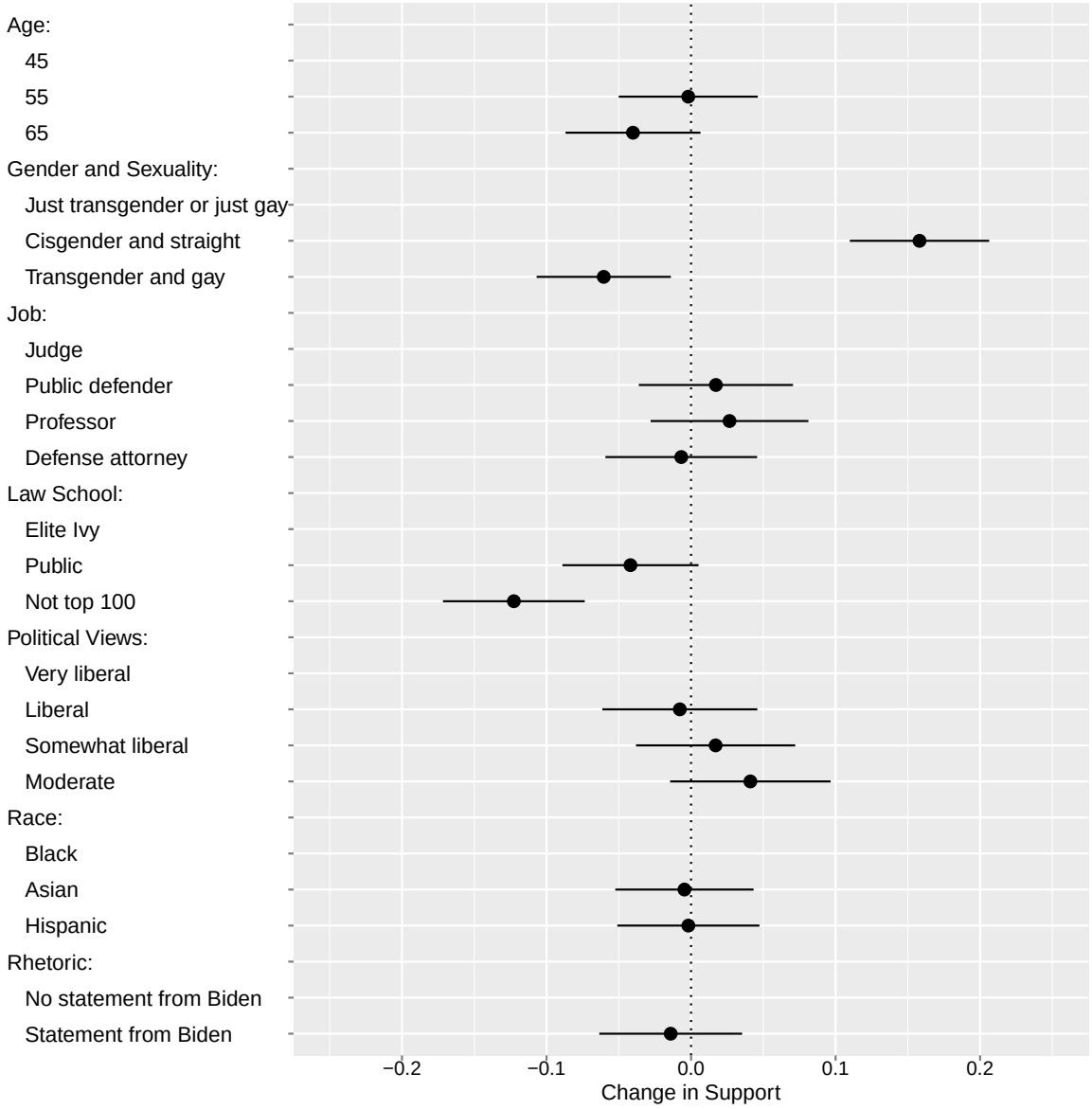
**FIGURE D.2:** Nominee Traits and Support for Supreme Court Nominees (Results By Party)




*Note:* Outcome is a binary measure of support for Supreme Court nominees. Bars represent the Average Marginal Component Effect with 95 percent confidence intervals for each of the varying attributes in our conjoint analysis; standard errors clustered by respondent.

## D.2 Double Penalty Full Results

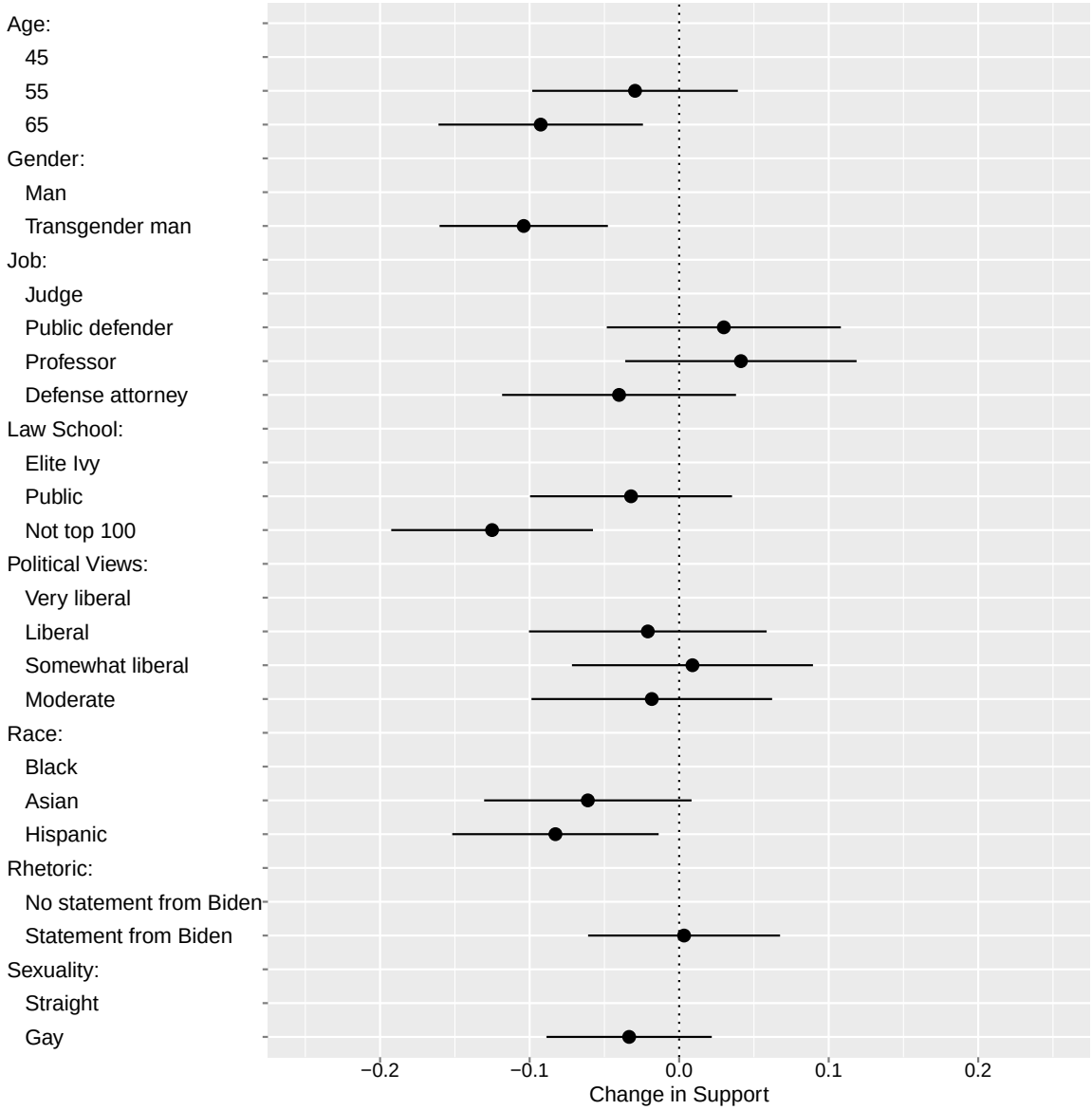
**FIGURE D.3:** Double Penalty of Transgender and Gay Nominees




*Note:* Outcome is a binary measure of support for Supreme Court nominees. Bars represent the Average Marginal Component Effect with 95 percent confidence intervals for each of the varying attributes in our conjoint analysis; standard errors clustered by respondent. Treatment effects plotted for judges who are transgender and gay/lesbian or judges who are cisgender and straight as compared to judges who are transgender or gay/lesbian (baseline).

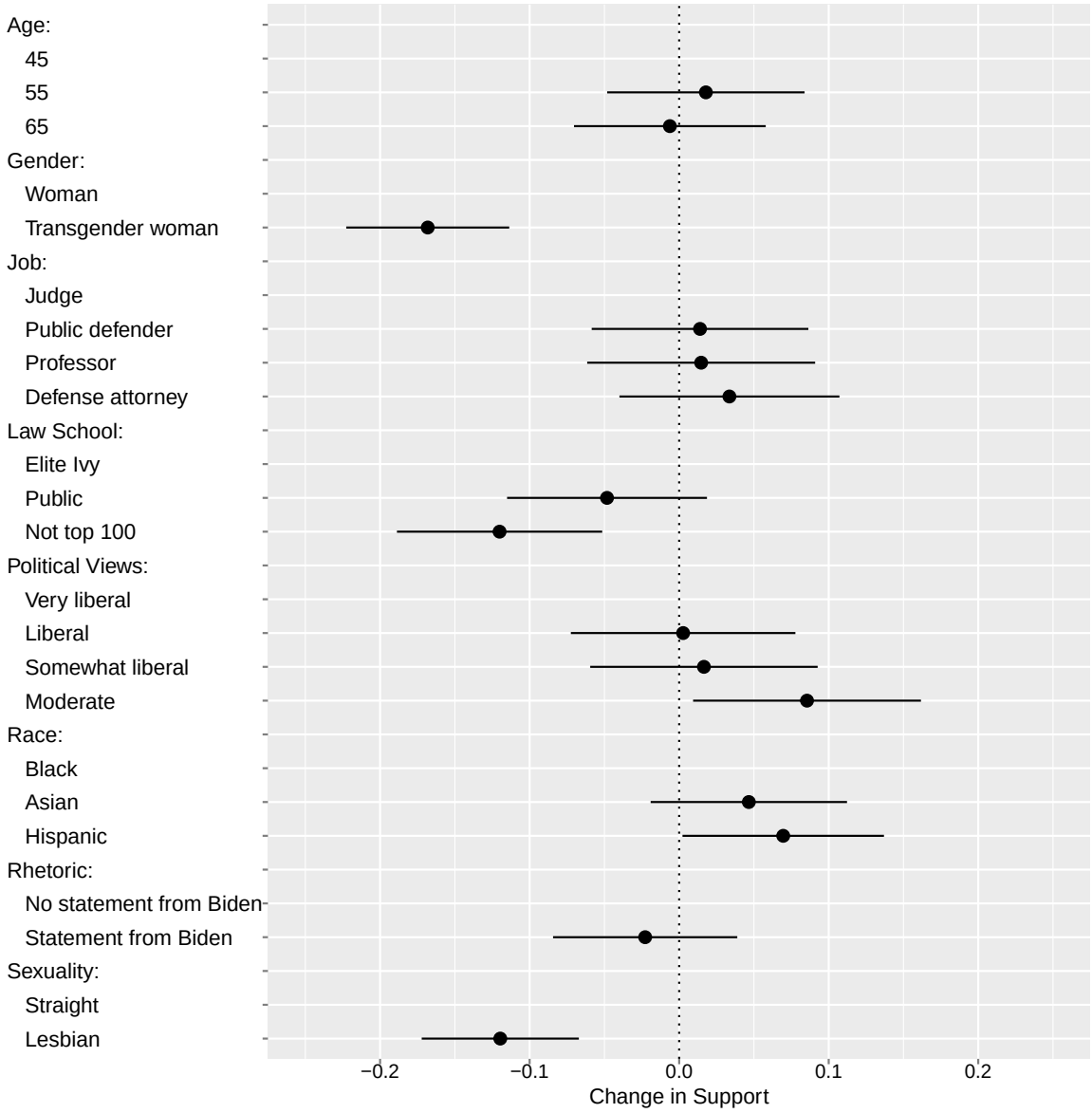
## D.3 Penalty for Men and Women Nominees Full Results

**FIGURE D.4:** Nominee Traits and Support (Men Nominees Only)




*Note:* Outcome is a binary measure of support for Supreme Court nominees. Bars represent the Average Marginal Component Effect with 95 percent confidence intervals for each of the varying attributes in our conjoint analysis; standard errors clustered by respondent. Data are subset to nominee profiles who are men.

**FIGURE D.5:** Nominee Traits and Support (Women Nominees Only)




*Note:* Outcome is a binary measure of support for Supreme Court nominees. Bars represent the Average Marginal Component Effect with 95 percent confidence intervals for each of the varying attributes in our conjoint analysis; standard errors clustered by respondent. Data are subset to nominee profiles who are women.

# E Robustness Checks and Additional Analyses

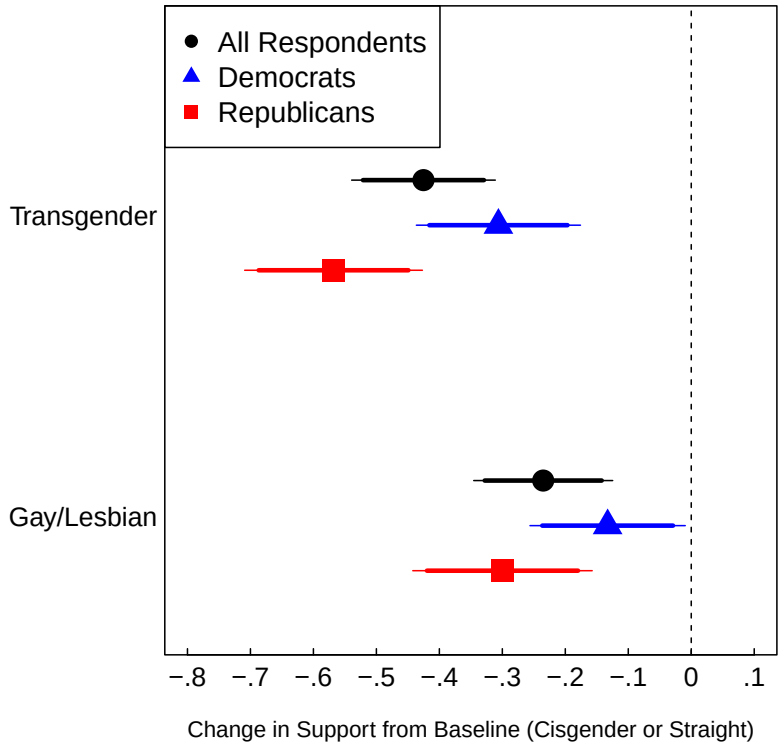
In this section, we report the results from a variety of robustness checks and additional analyses. In sum, our robustness checks (Figures E.1 to E.7) are consistent with the conclusions we draw in our main analyses. Our results are consistent when using a five-point support variable (Figure E.1), dropping "neither oppose nor support" respondents (Figure E.2), coding leaners as independents (Figure E.3), using respondent ideology (Figure E.4), controlling for respondent characteristics (Figure E.5), and limiting to first profile evaluations (Figure E.6) and to respondents who passed our attention check (Figure E.7).

Our additional analyses build upon our main text analyses. Figure E.8 shows that our results are driven by non-LGBTQ respondents; this aligns with research that shows Americans value judges who share their descriptive traits. Figure E.9 shows that our results are generally similar across levels of respondent Court knowledge; this speaks to scholarship on the role Court knowledge plays in shaping attitudes toward the judiciary.[99] Figure E.10 reports the results from our analysis of just cisgender, straight nominee profiles that we discuss in the main text footnote 6. Figure E.11 shows that the effects of LGBTQ traits on respondent evaluations of Court legitimacy are of smaller magnitude and more limited statistical significance compared with support for individual nominees.

[99] For example: Gibson, James L., and Gregory A. Caldeira. 2009. "Knowing the Supreme Court? A reconsideration of public ignorance of the high court." *The Journal of Politics* 71(2):429-441.

## E.1 Support for Nominee, Five-Point Measure

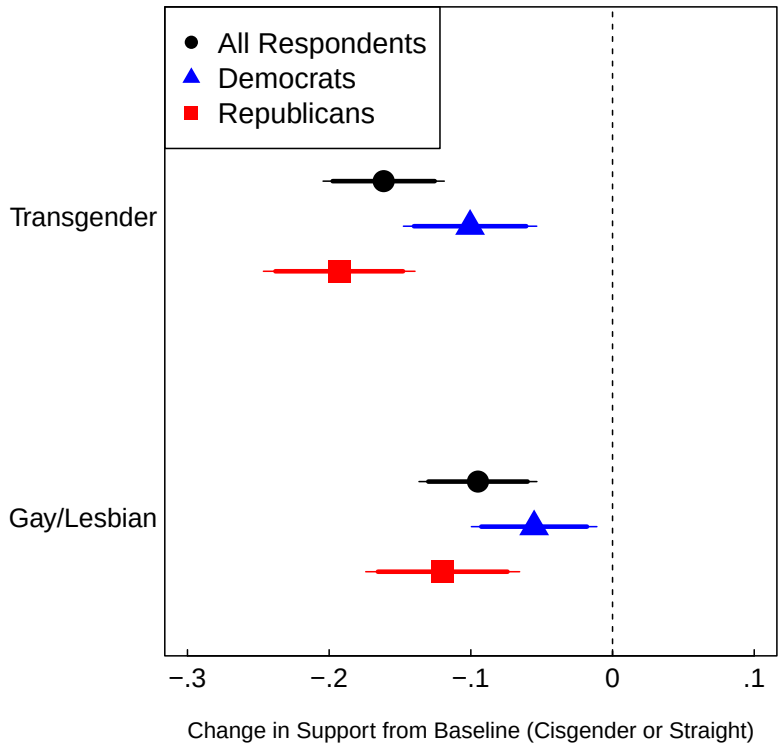
**FIGURE E.1:** Effect of Transgender and Gay Nominees on Support (Five-Point Measure)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support (measured on a five-point scale) of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). Separate results are presented for all respondents, Democrats, and Republicans. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.2 Support for Nominee, Dropping Middle Response Category

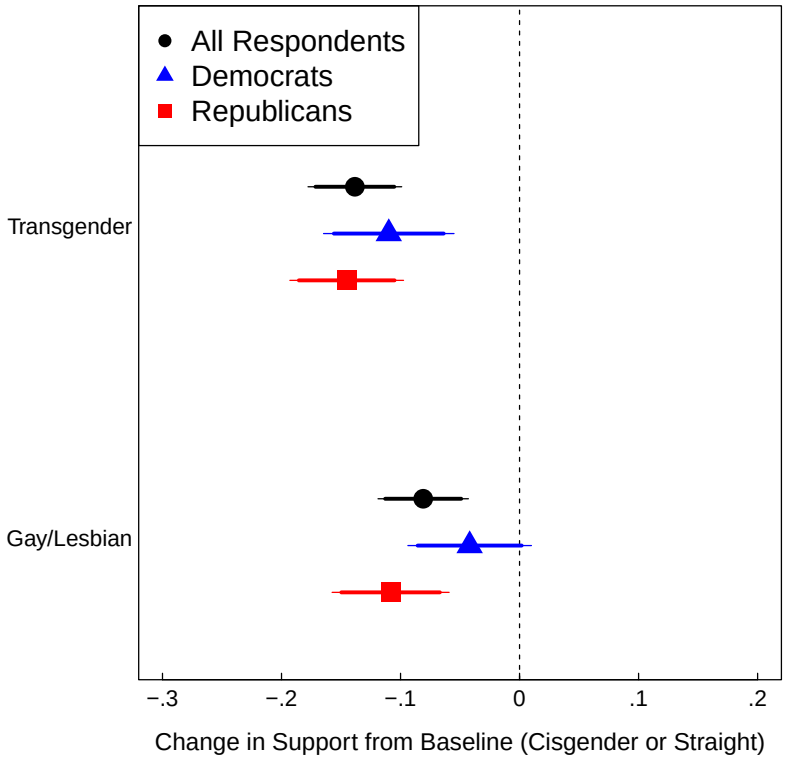
**FIGURE E.2:** Effect of Transgender and Gay Nominees on Support (Dropping Middle Response Category)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). Respondents who answered "neither oppose nor support" to the support outcome question are dropped from the analysis. Separate results are presented for all respondents, Democrats, and Republicans. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.3 Support for Nominee, Coding Leaners as Independents

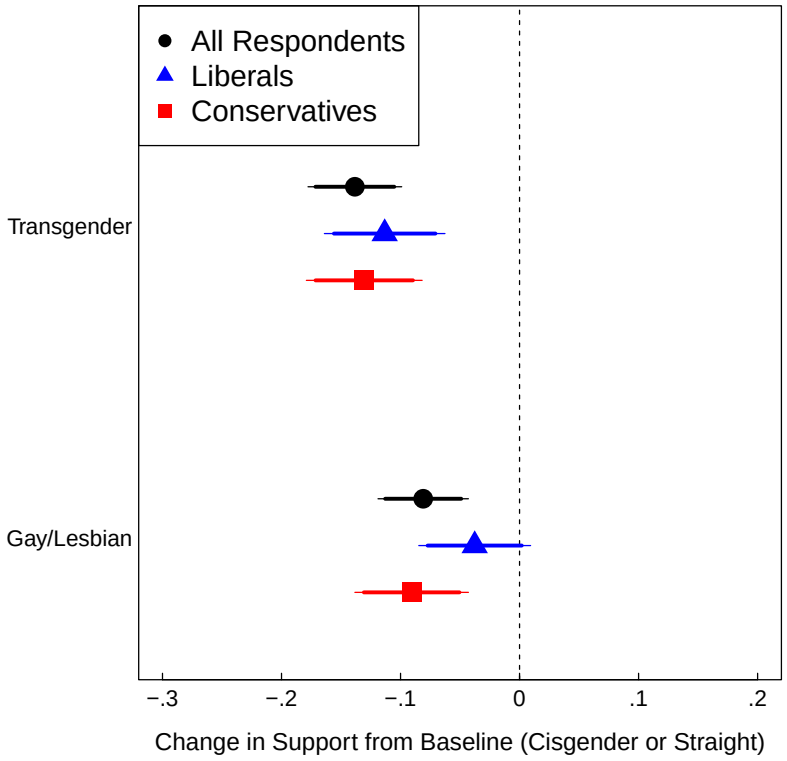
**FIGURE E.3:** Effect of Transgender and Gay Nominees on Support (Leaners as Independents)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). Leaners are coded as independents. Separate results are presented for all respondents, Democrats, and Republicans. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.4 Support for Nominee, Results By Ideology

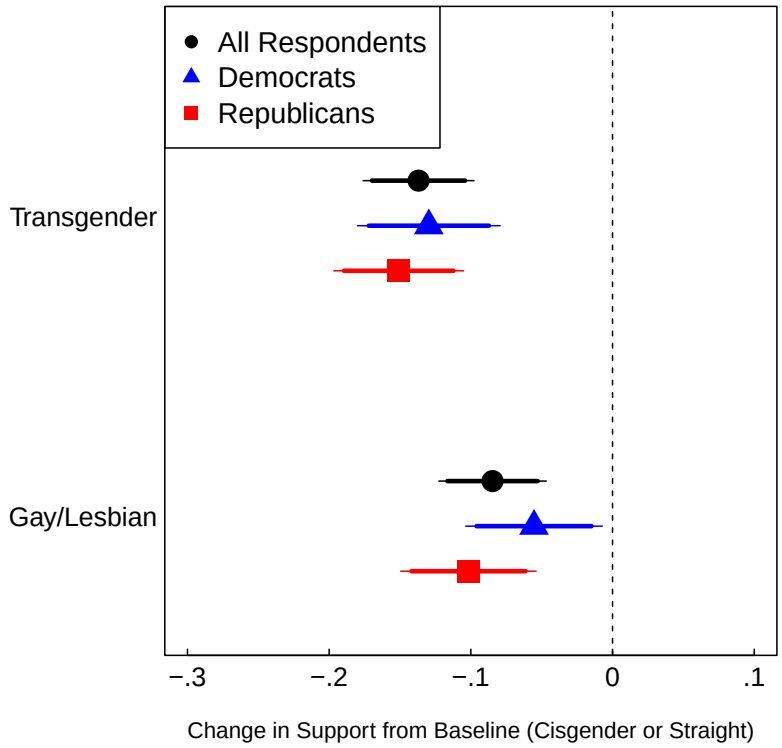
**FIGURE E.4:** Effect of Transgender and Gay Nominees on Support (Results by Ideology)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). Separate results are presented for all respondents, liberals, and conservatives. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.5 Support for Nominee, Respondent-Level Controls

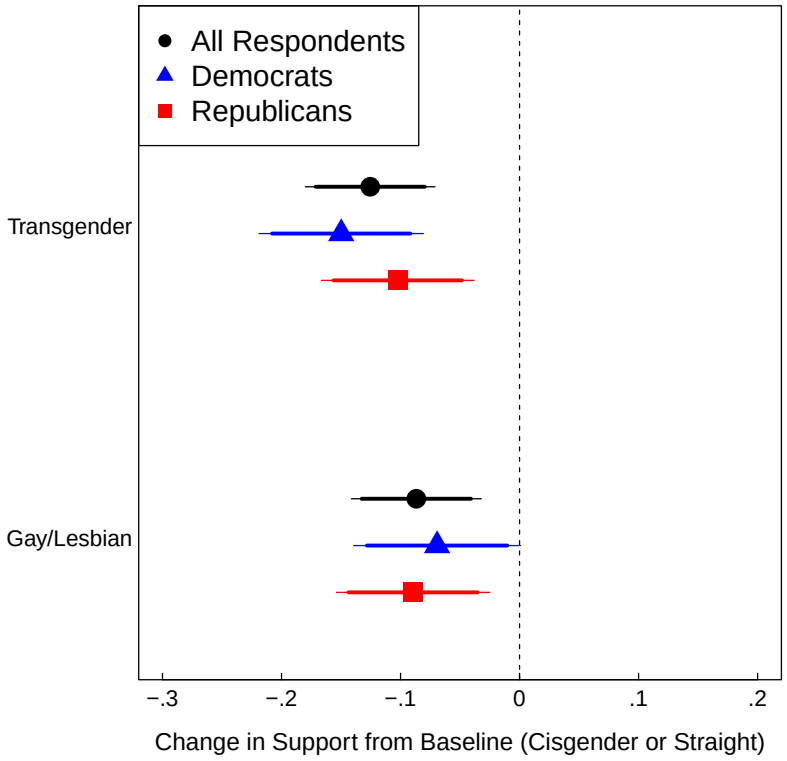
**FIGURE E.5:** Effect of Transgender and Gay Nominees on Support (Respondent-Level Controls)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). Analysis controls for respondent race (White/non-White), income (over $75,000/not), college degree, and gender (man/not). Separate results are presented for all respondents, Democrats, and Republicans. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.6 Support for Nominee, First Profile Only

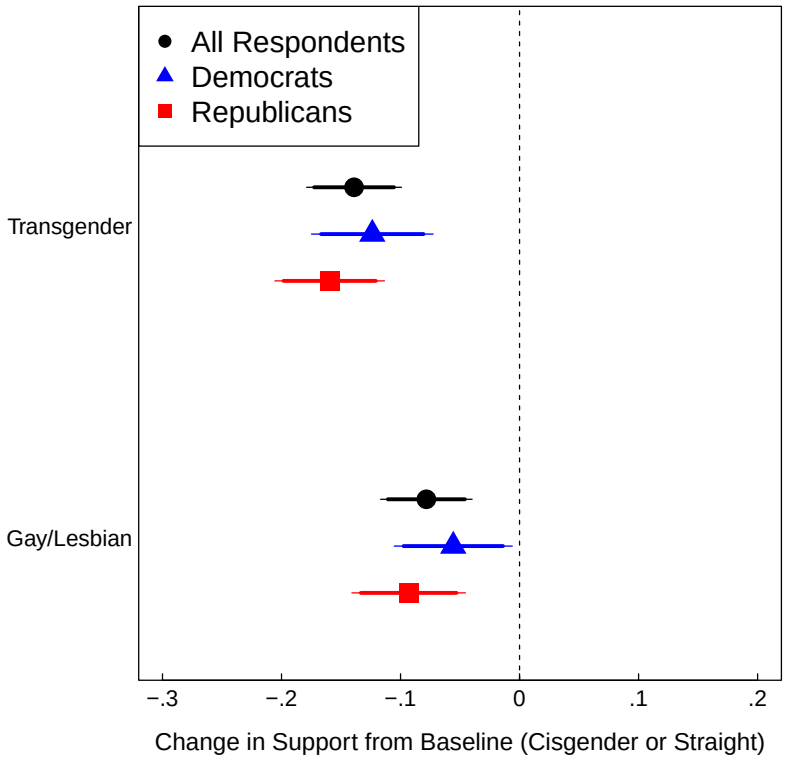
**FIGURE E.6:** Effect of Transgender and Gay Nominees on Support (First Profile Only)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). Results are subset to the first profile a respondent evaluated. Separate results are presented for all respondents, Democrats, and Republicans. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.7 Results Excluding Respondents Who Fail the Attention Check

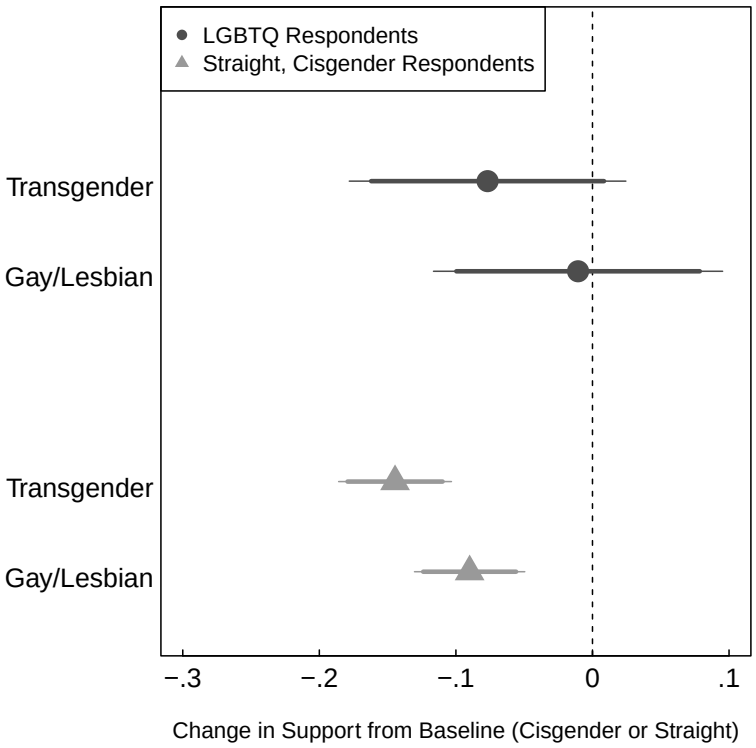
**FIGURE E.7:** Effect of Transgender and Gay Nominees on Support (Dropping Inattentive Respondents)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). The 2.6 percent of respondents who fail the attention check are dropped from the analysis. Separate results are presented for all respondents, Democrats, and Republicans. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.8 Results By Respondent LGBTQ Identity

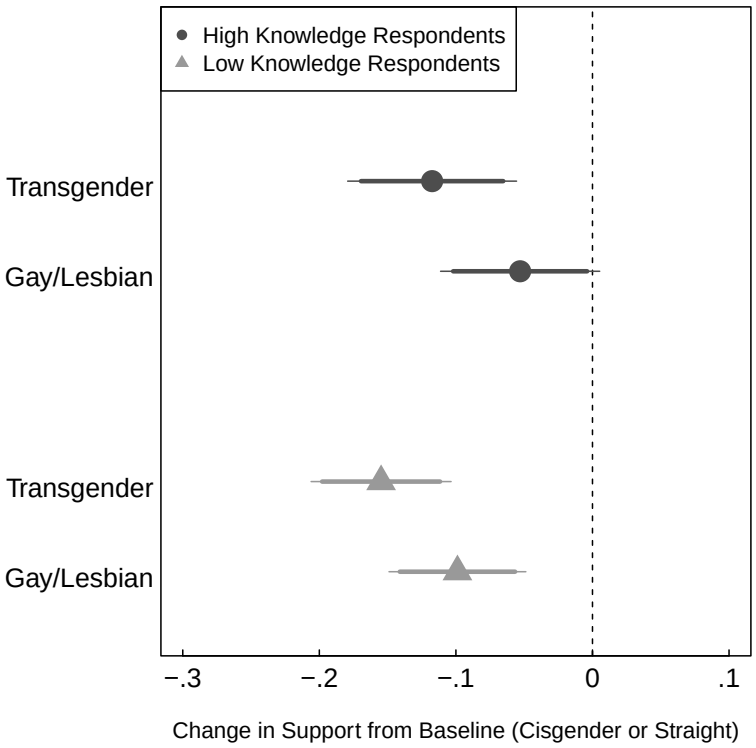
**FIGURE E.8:** Effect of Transgender and Gay Nominees on Support (Results by Respondent LGBTQ Traits)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). Separate results are presented for respondents who have LGBTQ traits (top points) or respondents who are straight and cisgender (bottom points). 89.0 percent of our respondents self-identify as straight, 9.9 as gay/lesbian/bisexual, and 1.0 as other. 99.0 percent of our respondents identify as cisgender men or women, 0.5 percent as transgender, and 0.2 percent as other. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.9 Results By Respondent Knowledge of Court

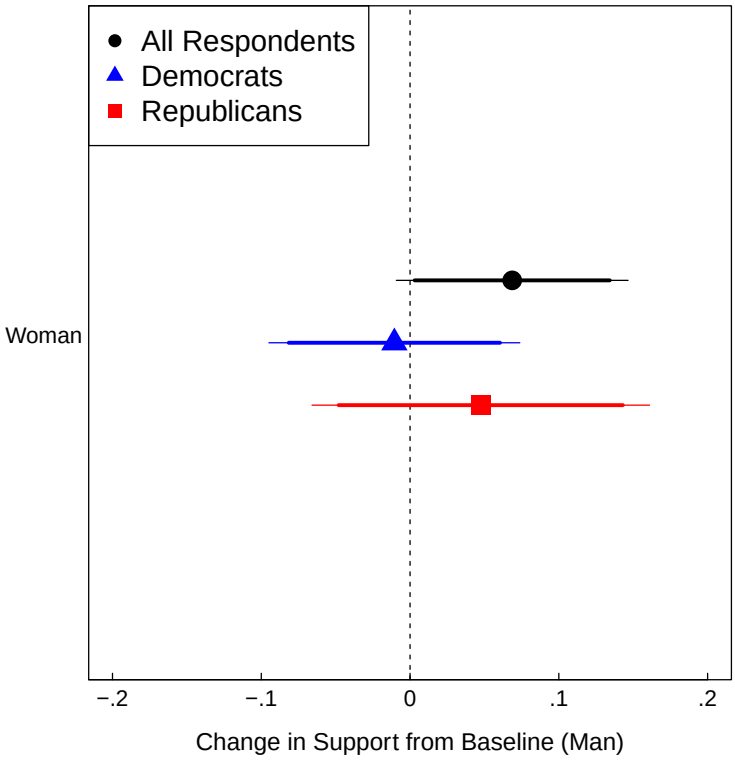
**FIGURE E.9:** Effect of Transgender and Gay Nominees on Support (Results by Respondent Knowledge of Court)




*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight). Separate results are presented for respondents who have high Court knowledge (4 factual questions correct, 44 percent of respondents; top points) or respondents who are low knowledge (0-3 factual questions correct, 56 percent of respondents; bottom points). Knowledge questions are presented in Supplementary Material Section A. Respondents who answered "don't know" to a knowledge question were coded as a 0 on knowledge for that question. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.10 Results for Just Cisgender, Straight Nominees

**FIGURE E.10:** Effect of Gender on Support (Just Cisgender, Straight Nominees)

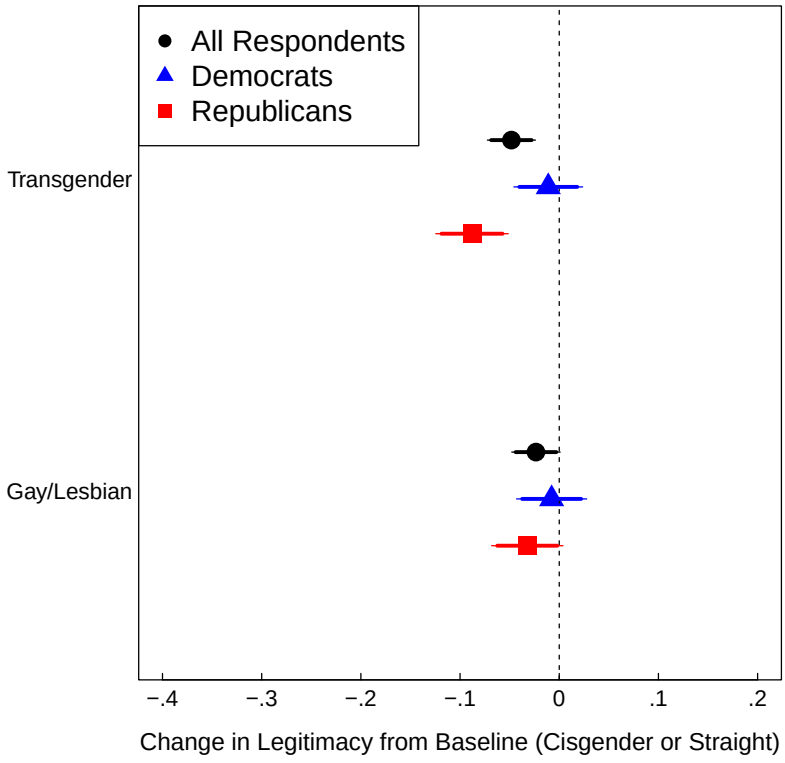



*Note:* Figure shows the estimated treatment effect (AMCE) on judge support of a nominee being a woman (as compared to the baseline of man). Data are subset to include only nominee profiles where the nominee is straight and cisgender. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

## E.11 Legitimacy Results

Figure E.11 illustrates that the effects of LGBTQ nominees on Court legitimacy (as measured via a five-question additive battery rescaled to range from 0-1 using the questions presented in Supplementary Material Section A) are of smaller magnitude and more limited statistical significance compared with support for individual nominees. Nevertheless, Republicans lower their evaluations of Court legitimacy by 8.8 percentage points ($p<0.001$) in response to evaluating a transgender judge and by 3.2 percentage points ($p=0.079$) for a gay or lesbian judge; we find no distinguishable effects for Democrats. These results suggest that, in addition to the negative impact on the support of individual nominees, diversifying the Court may provoke backlash against the institution as a whole.

**FIGURE E.11:** Effect of Transgender and Gay Nominees on Court Legitimacy




*Note:* Figure shows the estimated treatment effect (AMCE) of a nominee's transgender or gay/lesbian identity (as compared to the baseline of cisgender or straight) on evaluations of Court legitimacy (a five-question battery rescaled to range from 0-1) for all respondents, Democrats, and Republicans. 90 and 95 percent confidence intervals plotted for each estimate; standard errors clustered by respondent.

# F Additional Discussion of Argument and Findings

## F.1 Existing Scholarship on Prejudice

Existing scholarship is suggestive of the possibility that individuals across partisan identities may exhibit bias against LGBTQ individuals after accounting for the ideological cues LGBTQ identity can send. Consequently, when ideological instrumental incentives are accounted for, liberals may not be as supportive of LGBTQ politicians and judges as existing studies suggest. Research illustrates that racial prejudice appears across the political spectrum and plays a role in shaping political attitudes. For example, Hooghe and Dassonneville (2018) shows that racial resentment explains a voter's likelihood of voting for Trump, even after accounting for partisanship and ideology; these results emerge among both Republicans and Democrats. Further, Krupnikov and Piston (2015) show that racial resentment is associated with decreased turnout in the 2008 presidential election among strong Democrats. As the ideological views of presidential candidates are clear to voters, this suggests that after accounting for ideology, prejudice can emerge among voters that may be expected to support minority candidates on ideological grounds.

## F.2 Consideration of Generalizability of Findings

We focus on public attitudes toward LGBTQ judicial nominees in this paper. Future studies should investigate how our findings for judges compare to other politicians such as legislators, executives, or bureaucrats. Such a study would speak to how our theoretical argument about shared ideology as an instrumental reason why individuals may support or oppose a LGBTQ politician generalize to other political contexts.

As Americans demand policy representation from their judges (Bartels and Johnston 2012) and contemporary American Supreme Court nominations and attitudes toward the Court are relatively polarized (Cameron and Kastellec 2023; Levendusky et al. 2024), we may expect muted

differences across contexts. Alternatively, Americans hold legalistic expectations of judge behavior that render the judiciary distinct from the other branches (Rivero and Stone 2025), this may generate differential effects across institutions.