

# Presidents and the Status Quo

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August 7, 2019<sup>†</sup>

## Abstract

The dominant paradigm for policymaking by chief executives is they are first-movers who change the status quo. I re-evaluate this notion by extending recent advances in measuring the conservatism of policy, and by constructing a new comprehensive measure of presidential action. Though executive unilateralism theories predict whether a given status quo will change, empirical studies rely on aggregate analyses of executive productivity and second-order predictions based on assumptions about the spatial distribution of policies. I find evidence of the ecological fallacy in presidency research: despite aggregate findings in support of the theory, it poorly predicts policies addressed by presidential initiatives. Moreover, I show most of the prediction error is due to a high false-negative rate—with the president acting despite supposed separation of powers constraints. This suggests either that Congress is a weaker countervailing policymaker than previously thought, or that unilateral action is a poor conceptual paradigm for understanding presidential policymaking.

Wordcount: 9,989

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<sup>†</sup>I thank Chuck Cameron, Brandice Canes-Wrone, Fang-yi Chiou, Jesse Crosson, Thomas Gray, Adam Hughes, David Lewis, Nolan McCarty, Anne Joseph O'Connell, Yu Ouyang, Andrew Rudalevige, Jon Rogowski, Sharece Thrower, Justin Vaughn and audience participants at Princeton University and Vanderbilt University for helpful comments and suggestions. A previous version of this paper was presented at the 2019 annual meeting of the Midwest Political Science Association, Chicago, IL. Jesse Richman and Project Vote Smart generously provided the NPAT data for this study. Justin Fortney, Sebastian Leder Macek, Preet Rajpal, Andres Ramos and Jacob Walden provided helpful research assistance. I am responsible for all errors.

The Trump administration started like most contemporary presidencies: with a series of “executive actions” signed in front of cameras and designed to signal that the new president had come to change the status quo. Asked about what actions the president would take, White House Press Secretary Sean Spicer said “it’s just a question of which ones he feels like doing, and when.”<sup>1</sup> The president went on to sign dozens of directives, some of which addressed national monuments, public healthcare, federal funding for abortions, immigration, regulatory reform, and federal hiring. Executive-driven initiatives like these are a hallmark of modern government.

To understand these policy changes and the broader questions about presidential power they raise, scholars have developed and refined unilateral action theory (UAT). Like most presidential candidates, party activists, journalists, and the typical voter, this perspective sees chief executives as first-movers in democratic systems with ample opportunity to change the status quo. Through administrative directives, they break legislative gridlock (Howell 2003), reverse the policies of predecessors (Thrower 2017), and service key constituencies. The new status quo prevails unless it is invalidated by overwhelming legislative majorities or the Judiciary (Moe and Howell 1999). Though most often applied to the American presidency, versions of UAT have been leveraged to understand sub-national (e.g. Cockerham and Crew 2017; Barber, Bolton and Thrower 2019) and comparative politics (e.g. Neto 2006; Shair-Rosenfield and T. Stoyan 2017).

Despite UAT’s intuitive appeal and ubiquity, the evidence that supports it depends on important assumptions about theory and measurement. Since the theory predicts the movement of individual status quo policies, predictions about “executive productivity” in the aggregate depend on assumptions about their distribution. To measure productivity, studies turn to counts of various directives that are missing theoretically relevant actions and include irrelevant ones. To measure legislative constraints, researchers most often turn to dichotomous indicators for divided government and other periodization variables—which are only loosely related to the theory. Finally, in the previous two decades of research on UAT, nearly every quantitative study relies on the same research design: a time-series analysis of total presidential directives issued in a given period.

Given these limitations, I present an analysis of unilateral actions taken in 52 policy areas from the 103rd to the 114th Congress. This analysis has several appealing features. First, the narrower scope

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<sup>1</sup>Quoted in Shear, Michael D. and Julie Hirschfeld Davis. “Trump’s Improvised Path to a Month of Executive Action,” *New York Times* Jan. 21, 2017. <https://www.nytimes.com/2017/01/21/us/politics/trump-presidency-executive-action.html>

allows me to estimate the spatial position of the status quo by leveraging Project Vote Smart’s National Political Awareness Test (NPAT) of congressional candidates (Richman 2011). Importantly, this allows me to identify the policies that *should* be ripe for unilateral action by the president, while avoiding secondary assumptions about the distribution of potential policies to move.

Second, I construct a comprehensive list of unilateral action in each policy area. This list surveys all directives signed by the president—including executive orders, presidential memoranda, proclamations, determinations, and others. But importantly, it also includes unilateral initiatives previously omitted by past work because of arbitrary differences in the administrative implementation. These omissions are not minor. State waivers from the requirements of the No Child Left Behind (NCLB) Act, IRS regulations impacting corporate taxation, and the Deferred Action for Childhood Arrivals (DACA) program were all announced and implemented by the Obama administration—but do not appear in counts of executive orders (or any other type of directive). After including these non-directive presidential actions, I estimate that past work may omit at least 15% of relevant presidential initiatives by excluding these actions. If a study only analyzes executive orders, I estimate it excludes roughly 73% of relevant unilateral actions. Finally, the structure of the dataset and increased statistical power (relative to other research designs) permits modeling under numerous alternative assumptions. This is critical for an area of research with inherent limitations on causal identification. Absent standard approaches to design-based inference, the credibility of UAT depends on how well its multiple predictions organize the data.

In contrast to past research, I find no evidence in favor of UAT. The effect of a given policy being within the unilateralism regions identified by this family of theories is near zero, and inconsistently signed. This is true for different versions of the theory, or when leveraging variation within or between policy areas. It is robust to different subsets of policy areas, different versions of the dependent variable, and various strategies for taking into account status quo measurement error and missingness. Put simply, according to the theory and data, Presidents try to move policies they should not, and fail to address policies they should. This suggests that presidency research may be subject to an ecological fallacy: while UAT successfully predicts macro-level executive productivity, it poorly describes micro-level policy change.

The findings raise key issues for the study of the balance of power between Congress and the President. I show that the theories’ prediction error is mostly due to “aggressive mistakes”—or instances in which the president should not be permitted to change the status quo. This suggests one of two

things. First, Congress' ability to propose less-extreme alternatives when a president acts may be less reliable than previously thought. This breakdown would allow the president to substitute favorable policies that would otherwise revert to the congressional median. Second, a subset of presidents' initiatives may neither propose, nor enact, new policy. Instead, they may be "false front" actions: tools for attracting media attention, persuading constituents, or claiming credit. Under this framework, workhorse spatial models of policy change would be inappropriate to describe presidential unilateralism. Either case demands revision of first-mover theories of presidential power.

## Presidents and Policy Change: Theory to Testing

Models of unilateral action fundamentally shifted how scholars study chief executives (Moe and Howell 1999; Howell 2003). They are built on two important points. First, presidents act as first-movers with relative freedom from the collective action or agency problems faced by other institutions. Second, constraints on these moves are mostly a function of the separation of powers. Other actors—namely, Congress and the Judiciary—must challenge the new status quo. To incorporate these features, Howell (2003) extended theories of "pivotal" politics, replacing their focus on lawmaking with unilateral action (Krehbiel 1998; Brady and Volden 2006). The studies containing theoretical refinements and empirical tests of this perspective are too numerous to review in the context of this study.<sup>2</sup>

But by borrowing from theory-driven empirical work in Congress, studies of unilateral action also inherited several limitations. Some of these are shared with scholarship trying to understand legislative productivity. The core question addressed by the theory is whether the proposer will successfully improve upon some current status quo in a one-dimensional policy space. The core question addressed by the standard empirical approach is what predicts the level of productivity in a given period. Getting from theory to testing, then, requires some assumption about the distribution of status quo policies in that period. This leads to expectations about how productive, on average, presidents and legislatures will be. But, as most previous work on legislative productivity acknowledges, there are a variety of reasons any distributional assumption will be incorrect.<sup>3</sup> If policies are uniformly dis-

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<sup>2</sup>Reviews and commentary on unilateral action account for three chapters of the *The Oxford Handbook of the American Presidency* (Edwards and Howell 2009), a recent special issue of a journal (see Rottinghaus 2015), and at least one dedicated panel at every annual meeting of the *American Political Science Association* for the last 10 years.

<sup>3</sup>For a discussion of these, see Woon and Cook (2015).

tributed at the start of a Congress, for example, the theory explicitly predicts this will no longer be the case at the end—so there is time-dependence between distributions. Moreover, policy agendas appear to be driven by “shocks”—sudden events, technological developments, or decay (e.g., Callander and Krehbiel 2014)—that shift the distribution and are difficult to incorporate.

Other limitations are particular to the presidency. Congress’ rules and structure mean that legislative productivity is easily observable. Congress produces laws. Refining measures of what laws are important and constitute accomplishments is an important enterprise in and of itself (e.g. Clinton and Lapinski 2006), but the universe of policy change is well-defined. Measuring executive productivity is far less straightforward. Few formal institutions govern the president’s power of unilateral action. This means observable outputs vary dramatically. They plausibly include written and verbal directives, regulations, contracts, grants, troop deployments, and voluntary agreements with stakeholders. Moreover, unlike Congress—which labels non-binding resolutions and other bills that accomplish little—parsing what “counts” as an executive accomplishment is comparatively difficult.

Studies typically regress counts of presidential directives on various predictors. This is vulnerable to two sources of error. It may omit cases of unilateral action and include cases that are not. The most obvious source of omission is that there are at least 25 types of presidential directives, and most studies collect a single variety (e.g. executive orders, memoranda, proclamations, signing statements, etc.) to study (Relyea 2005). If unilateral action can occur via multiple means, this constitutes missing data and will lead to bias. If the missing cases are plausibly random, there will be attenuation bias. But if the selection of one “tool” over another is strategically related to factors like support in Congress, presidential popularity, or anything else researchers include in their analyses—the bias may generate either a false positive or false negative.

An additional source of omission is that some unilateral actions have no presidential directive attached to them. In 2012, the Obama administration began implementing portions of the failed DREAM act by instructing the Department of Homeland Security to dramatically increase the number of undocumented immigrants granted “deferred action” designation. As of the most recent quarterly report, there were nearly 700,000 immigrants with active status. Republicans overwhelmingly opposed the move, with dozens of state attorneys generals challenging it in court, and a Republican-led congress symbolically defunding the program.<sup>4</sup> This is a “textbook” case meant to be explained by UAT—

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<sup>4</sup>It is funded by fees.

featuring both important policy change and separation of powers conflict. But there is no DACA presidential directive, because the president never signed one.<sup>5</sup> Though few omitted cases rise to this level of importance, there are enough anecdotes non-directive based initiatives to warrant concern.

Another source of error—including irrelevant cases—has received far more attention. Research has applied approaches designed to assess the “significance” of laws to presidential directives (e.g. Mayer and Price 2002; Chiou and Rothenberg 2014). This likely removes many “house-keeping” directives that most would consider either unimportant or clearly outside the scope of UAT.<sup>6</sup> But measuring significance with raters has limitations. First, executive orders are typically the only type of directive mentioned by name in most raters (e.g. news organizations). So scholars trade off parsing the irrelevant for omitting potential relevant, non-executive order cases (but see Kaufman and Rogowski 2019).

Second, some salient directives do not propose a change to the status quo. Many create commissions, working groups or task forces that may or may not propose change at some later date. The Trump administration provides some recent, instructive examples. The establishment of a now-defunct advisory commission on voter fraud led to no policy proposals.<sup>7</sup> Had it not faced legal challenges, its mandate still left open the deadline for a vague report on the subject. A second executive order disbanded the commission. Under the standard measurement approach, this would count twice toward the period’s executive productivity. Even when this variety of directive leads to policy change, the change is often delayed. President Trump ordered a review of national monuments in April 2017.<sup>8</sup> The first policy change as a result of that review came in December 2017, via a different type of directive.<sup>9</sup> Additional re-designations of public lands could continue to occur into the next Congress.

In summary, though unilateral action presents an intuitive and powerful way of understanding presidential policymaking, the standard approach to testing theories of unilateral action may be insufficient. In fact, a decade ago, one review summarized this widespread approach as “formulaic” and

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<sup>5</sup>Likewise, President Trump’s move to rescind the policy was not enacted via presidential directive.

<sup>6</sup>Examples include: amending orders of succession in agencies, exempting officials from mandatory retirement, and letting federal employees go home early for Thanksgiving.

<sup>7</sup>Executive Order 13799. “Establishment of Presidential Advisory Commission on Election Integrity,” May 11, 2017.

<sup>8</sup>Executive Order 13792. “Review of Designations Under the Antiquities Act,” April 26, 2017.

<sup>9</sup>Proclamation 9681. “Modifying the Bears Ears National Monument,” December 4, 2017.

“unsustainable” Howell (2009). To begin to address these limitations, then, I extend recent efforts to measure the position of status quo policies, and present a new measure of unilateral action.

## Model Predictions

To re-evaluate UAT, I rely on predictions developed by Chiou and Rothenberg (2017). Chiou and Rothenberg provide a comprehensive theoretical and empirical account of unilateral action. Most importantly, they present numerous alternative models that incorporate various assumptions about presidents’ discretion and the role of parties. In so doing, they cleanly synthesize arguments present in the previous two decades of research and provide several important extensions. To provide a general empirical evaluation of unilateral action, I test their three core models: unilateralism, chamber-compliance, and partisan-compliance. I review each briefly below, but refer the reader to their work for proofs and complete discussion.

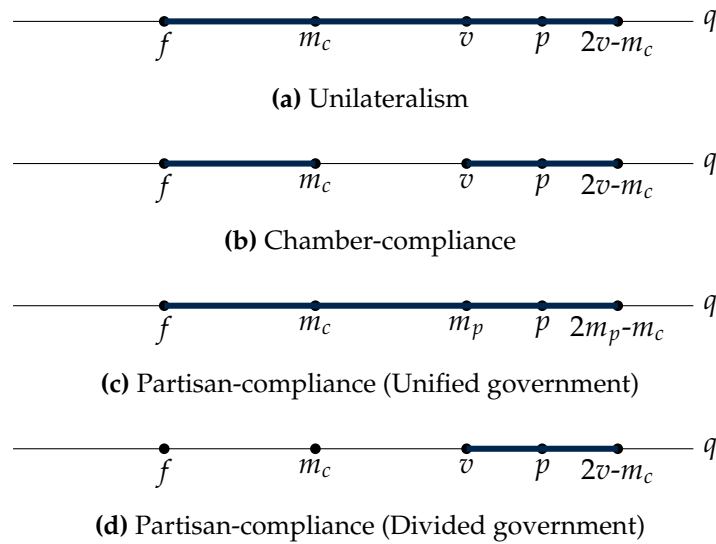
The basic features of each model will be familiar. Policies and single-peaked preferences are arranged on a unidimensional policy space. The president is a first-mover, Congress is represented as a median and “pivotal” actors, and the resulting predictions describe spatial regions where the president breaks gridlock (or acts preemptively) in equilibrium. In brief: Nature determines some status quo,  $q$ , and the level of discretion given to the president. The president decides whether to act unilaterally. A proposer in Congress decides whether to overturn the policy, subject to the limitations imposed by the filibuster pivots,  $f$ . The president has the opportunity to veto, and Congress has the opportunity to override—subject to the approval of the veto-override pivot ( $v$ ).<sup>10</sup>

The presidents’ proposal rule varies by model. This is the key assumption that alters the action regions in Figure 1. In the *unilateralism* model depicted in Figure 1a, the president can move policy in any direction. For the *chamber-compliance* model in Figure 1b, the president’s proposal is restricted to movement towards the congressional median ( $m_c$ ). The *partisan-compliance* model replaces  $m_c$  with  $m_p$ , the majority party median. Not surprisingly, relaxing proposal restrictions results in more equilibrium opportunities for changing the status quo. *Unilateralism* allows the president to move policy within the canonical gridlock region,  $[f, v]$ , along with the veto-override and its inflection point,  $[v, 2v - m_c]$ . *Chamber-compliance* amends this region by gridlocking all policies between the median and the veto-

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<sup>10</sup>The models also include the potential for invalidation by the Judiciary. But since this final veto point does not change the comparative statics with respect to the president and Congress, I leave it for future work.

**Figure 1** – Models of Unilateral Action (Chiou and Rothenberg 2017)



*Note:* Depicts regions of expected unilateral action (darkened lines) for all values of discretion and status quo policies ( $q$ );  $f$ ,  $m_c$ ,  $m_p$ ,  $v$ , and  $p$  denote ideal points for the filibuster pivot, median legislator, party median, veto-override pivot, and president, respectively. Omits regions where the probability of unilateral action is not zero, but less likely. For proofs and discussion, see Chiou and Rothenberg (2017: 45-62, 192-198)

override pivot. *Partisan-compliance* implies unilateral action depends heavily on majority party control. Under divided government (Figure 1d), the president’s action region is severely constrained, whereas under unified government, the size of the action region will likely exceed that of the *unilateralism* model.

These regions lead to straightforward expectations about public policies the president should change. For a given status quo in the Figure 1 regions, a strategic president should propose some alternative that will lead to change. We observe that alternative as an executive order, proclamation, or other tool leveraged by the president’s administration.

## Measuring Policy Positions

To measure status quo policies, I leverage legislator responses to Project VoteSmart’s NPAT survey.<sup>11</sup> For a given policy area, the survey asks congressional candidates whether enforcement, funding, taxes, or fees are too high, too low, or about right. Responses are recorded on either 3- or 5-point Likert scales. When paired with estimates of legislator’s preferences, this directional information can be used to

<sup>11</sup>I describe how these data were accessed and their completeness in the Supplementary Information (SI).



approximate the current spatial position of the policy. This method was developed by Richman (2011, 2015) to test competing theories of lawmaking. Notably, in Richman’s analysis status quo movement was well-organized by spatial voting theories. Responses to the NPAT have also been used to estimate the preferences of state legislators (Shor and McCarty 2011; Coleman, Peress and Richman 2013), party influence on roll-call voting (Ansolabehere, Snyder and Stewart 2001*b*), and candidate positions in elections (Ansolabehere, Snyder and Stewart 2001*a*). The basic procedure is:

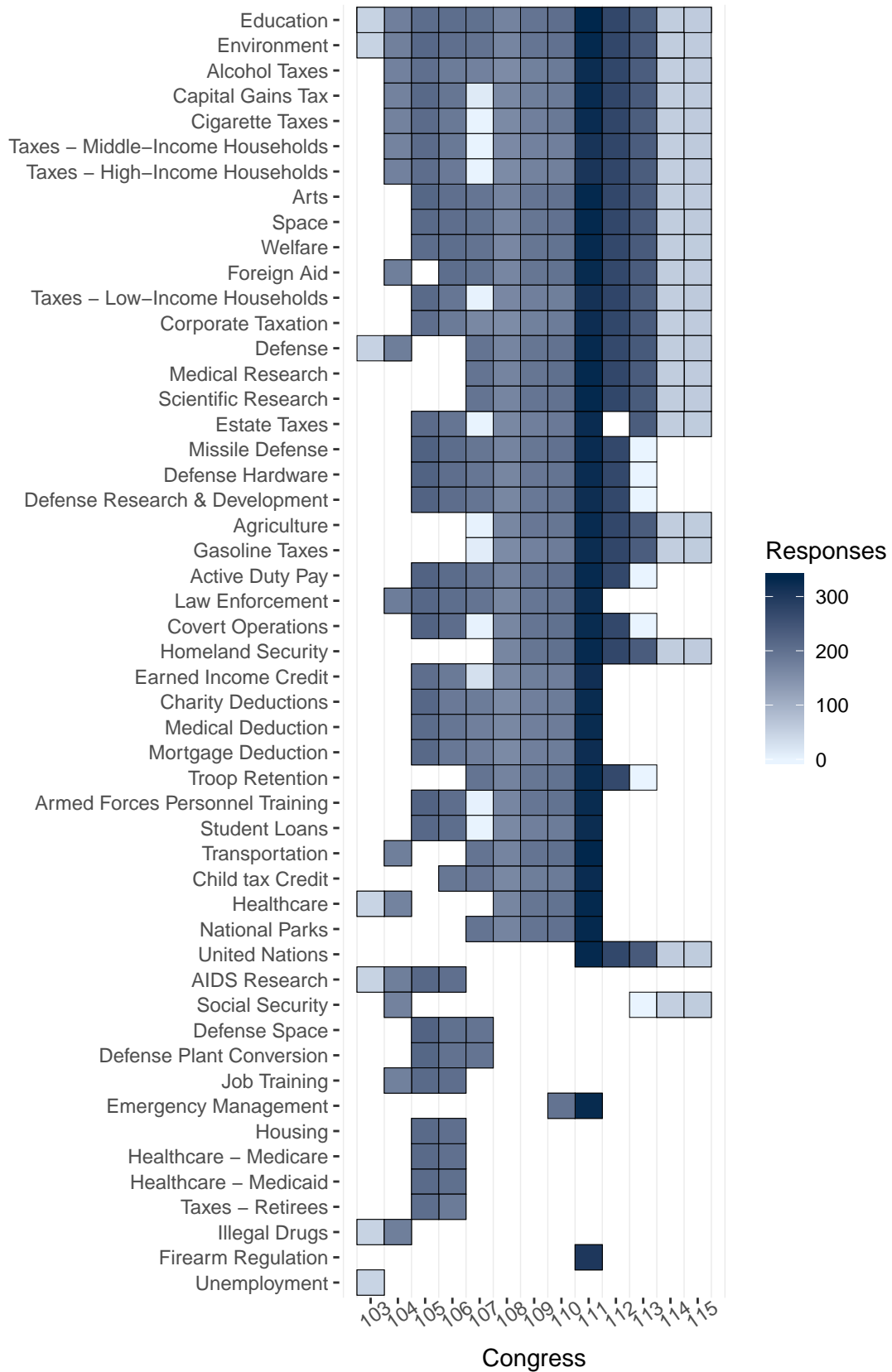
1. Predict NPAT response with measure of legislator preference using an ordinal probit.<sup>12</sup>
2. Estimate predicted probability of “maintain status quo” response by legislator.
3. Assign status quo as the legislator score with the maximum predicted probability.
4. Repeat 1–3 with 1,000 bootstrapped replicates to obtain standard errors.
5. Repeat 1–4 for each policy area and Congress.

The survey has a few limitations. First, the survey defines the set of status quo policies that can be estimated. I report the full set of policies in Figure 2. This means there will be some areas of public policy (e.g. immigration, gun control, trade liberalization, and civil rights) with incomplete time series coverage, and others that fall outside of the scope of this study entirely. In addition, the survey includes several areas of policy on which presidents have never taken action. These issues are often related to excise taxes or deductions—areas where unilateral action is sometimes explicitly beyond the presidents’ statutory and constitutional authority. I discuss several exceptions in the following section.

Second, survey questions within the same policy issues vary slightly over time, raising the possibility that changes in responses could be an artifact of wording. The strongest argument counter to this concern is that legislators are sophisticated survey respondents who know their responses will be

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<sup>12</sup>For the analyses reported in text, I use Bonica (2016) scores, but the results do not differ substantially if an alternative measure, 1st-dimension common space DW-NOMINATE scores (Carroll et al. 2015), are used.



**Figure 2 – National Political Awareness Test (NPAT) Survey Responses, 103rd-115th Congress.** Plots number of respondents by question/cycle matched to Bonica (2016).

publicly available. Thus, changes in their responses are plausibly influenced by actual policy, rather than the instrument. Third, response rates have declined over time, particularly among Republicans. Project Votesmart still conducts this survey (now known as the Political Courage Test), but in the most recent Congresses, fewer than 25 sitting legislators participated. This raises a few potential concerns. Fewer responses means the status quo will be estimated with more uncertainty. Responses from more liberal legislators could lead to bias.<sup>13</sup> Specifically, the imbalance of legislators may lead moderate conservative policies to be estimated as more extreme than the “true” status quo.

To address this concern, use Bonica (2016) CFscores to measure politicians’ preferences. This nearly triples the number of NPAT responses, relative to Richman (2011), by expanding the pool of respondents to candidates who never held elected office (Table A1). Beyond dramatically increasing the precision of the status quo estimates, this also produces a more ideologically balanced sample of respondents (Figure A1). This reduces the threat of the bias by ensuring that policy questions have respondents across the political spectrum.

The complete NPAT record for all federal congressional cycles from 1992-2018 contains 1.1 million responses from 7,060 unique candidates. Once questions that do not follow the required Likert format are eliminated, this drops to 546,215 responses and 6,413 candidates.<sup>14</sup> Of these, 1,328 candidates with 155,580 responses can be matched to Bonica (2016) using candidate names, cycle, state, and office.<sup>15</sup> The vast majority of unmatched names are third-party candidates with few political contributions, which NPAT records oversample because the surveys are voluntary. Though I report these merge statistics for completeness, it is important to note these candidates are also excluded from past research that utilized NPAT surveys to study elected officials.

I report a sample of results of this estimation procedure in Table A3 of the SI. Importantly, CFscores are strongly predictive of the vast majority of survey responses, suggesting that most issues are appropriately arrayed along the conventional liberal-conservative continuum. Moreover, policies exhibit clear variation in spatial position. Figure 3 provides an empirical assessment of the uniform distribution assumption adopted by some studies of unilateral action. The distribution is multi-modal, with clusters at the political extremes and around the congressional median. Though the status quo

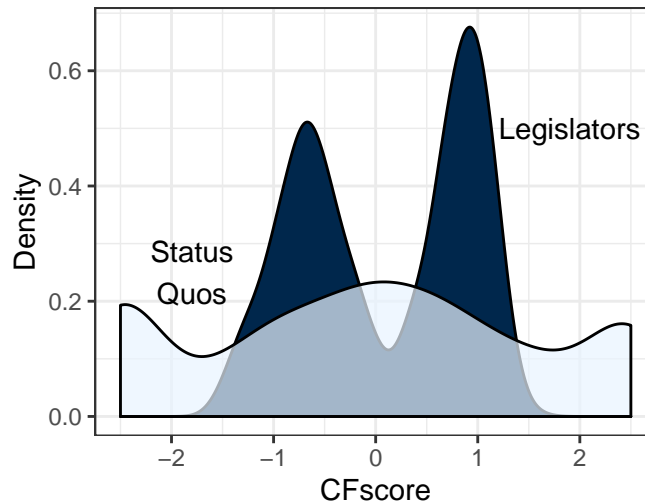
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<sup>13</sup>Though, notably, simulations suggest non-response bias is not particularly concerning, even with ideologically-driven response patterns (Richman 2011).

<sup>14</sup>Many questions are open-ended or dichotomous (“support” or “do not support”).

<sup>15</sup>This was implemented using `fastLink` (Enamorado, Fifield and Imai 2018).

points are more precisely estimated and cover an extended time series, this largely replicates findings in Richman (2011: 158, Figure 5). It is also reassuring that the distribution does not appear to be normal—which might have been the result of polarized parties pooling on the same opposed, extreme responses. Most importantly, there is substantial variation whether status quo policies are located in the unilateral action regions in Figure 1.



**Figure 3 – Status quo policies are not uniformly distributed.** Plots the kernel density of ideological positions Congress and status quos, based on CFscores and NPAT responses.

Moreover, the estimates exhibit “face” validity and respond intuitively to circumstances. Education policy is estimated to be conservative at the start of the Bush presidency, but gradually becomes more liberal after the enactment of the No Child Left Behind (NCLB) act and the Obama administration’s “Race to the Top” initiative. The status quo in environmental policy moves right following a series of “third-way” compromises during the Clinton administration and through the Bush administration, but then shifts dramatically left in the aftermath of the return of Democratic majorities and Barack Obama’s first term. Welfare shifts right following the introduction of work-requirements during the Clinton administration. Overall, though I note several concerns with this measurement strategy above, the measures themselves appear to exhibit meaningful variation directly relevant to UAT.

### Measuring Presidential Action

What counts as unilateral action? The procedure for constructing a list of presidential actions differs from past work in several important respects. First, rather than collecting all unilateral actions within a given period, I restrict attention to the policies covered in NPAT questions. This avoids inclusion of

routine or ineffectual orders that are sometimes the subject of media reporting, and therefore, included in most counts of presidential directives. Actions were collected for the complete time series for all policy areas, even if the policy area did not appear in some election cycle surveys. To remain inclusive and provide a more comprehensive picture of unilateral action, actions were collected for recurring NPAT policy topics with question formats that preclude status quo estimation (e.g., community policing, abortion, immigration, and affirmative action). Second, the universe of actions goes beyond directives published by the White House that contain the president's signature. This means that what "counts" as action is free of arbitrary distinctions between presidential documents or the administrative means of policy change. I discuss the procedure for collecting these actions in this section, but further details, diagnostics, and protocols can be found in the SI.

I collect unilateral actions in a given policy area by first searching to the universe of presidential directives published between 1993-2016. The source is the GPO's *Compilation of Presidential Documents*. This is the most comprehensive source for all presidential directives (e.g. executive orders, proclamations, determinations, military orders, memoranda, and unnamed directives) and also includes documents not published in the *Federal Register (FR)*.<sup>16</sup> This is important, because presidents may strategically select documents to publish in the *FR* (Cooper 2002). During this period, the *Compilation* contains 5,567 directives. Each policy area is assigned a dictionary, and word frequencies are obtained from the full text of each document. The complete dictionaries and match frequencies can be found in Table B5 of the SI. These most probable matches assist hand-coding, as documents with zero or infrequent occurrences (relative to their total word count) are discarded. Most policy areas are hand-coded by two coders. Policy areas where inter-rater reliability was low were coded by a third rater.

For many areas of policy, the procedure above will be sufficient to produce an accurate depiction of unilateral action on the part of the president. All expansions or contractions of national parks and monuments, for example, are enacted via proclamation on the basis of the president's authority under the Antiquities Act. Changes to active duty military base pay are enacted yearly via executive order. Since the early 1960s, default military pay raises have been tied to the employment compensation index (ECI). The president, however, has been given the authority to propose national security exceptions

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<sup>16</sup>The *Compilation* omits several types of directives classified at the time of signing. These 112 documents typically deal with national security: Presidential Policy Directives, Presidential Review Directives, Homeland Security Presidential Directives, and National Security Presidential Directives. The full text of most of these documents have yet to be declassified, so some had to be coded on the basis of their title.

(up or down) to the default raise (37 U.S.C. 203[a]). George W. Bush proposed raises larger than ECI, whereas the Obama administration proposed lower. In accordance with UAT, I code this as an action if there is a presidentially proposed change to the status quo—regardless of whether Congress overrules it.

For a few areas of policy, however, lists of presidential directives miss important cases or inaccurately depict the timing of a change. The gradual rollback of the NCLB requirements through the issuance of waivers was announced by the Obama administration in conjunction with the “Race to the Top” initiative, but there is no directive to mark this unilateral action. Presidents have also used their statutory authority to implement changes to the internal revenue code that impacted taxes on corporate earnings and wealthy individuals who use family limited partnerships as shelters (Hemel 2017). These occurred through Treasury department notices, rulings and regulations—but had been previously proposed in the president’s “greenbook” of tax revisions sent annually to Congress. Regulations proposed in 2016 by the Obama administration were even highlighted in by the president in a White House press conference.<sup>17</sup>

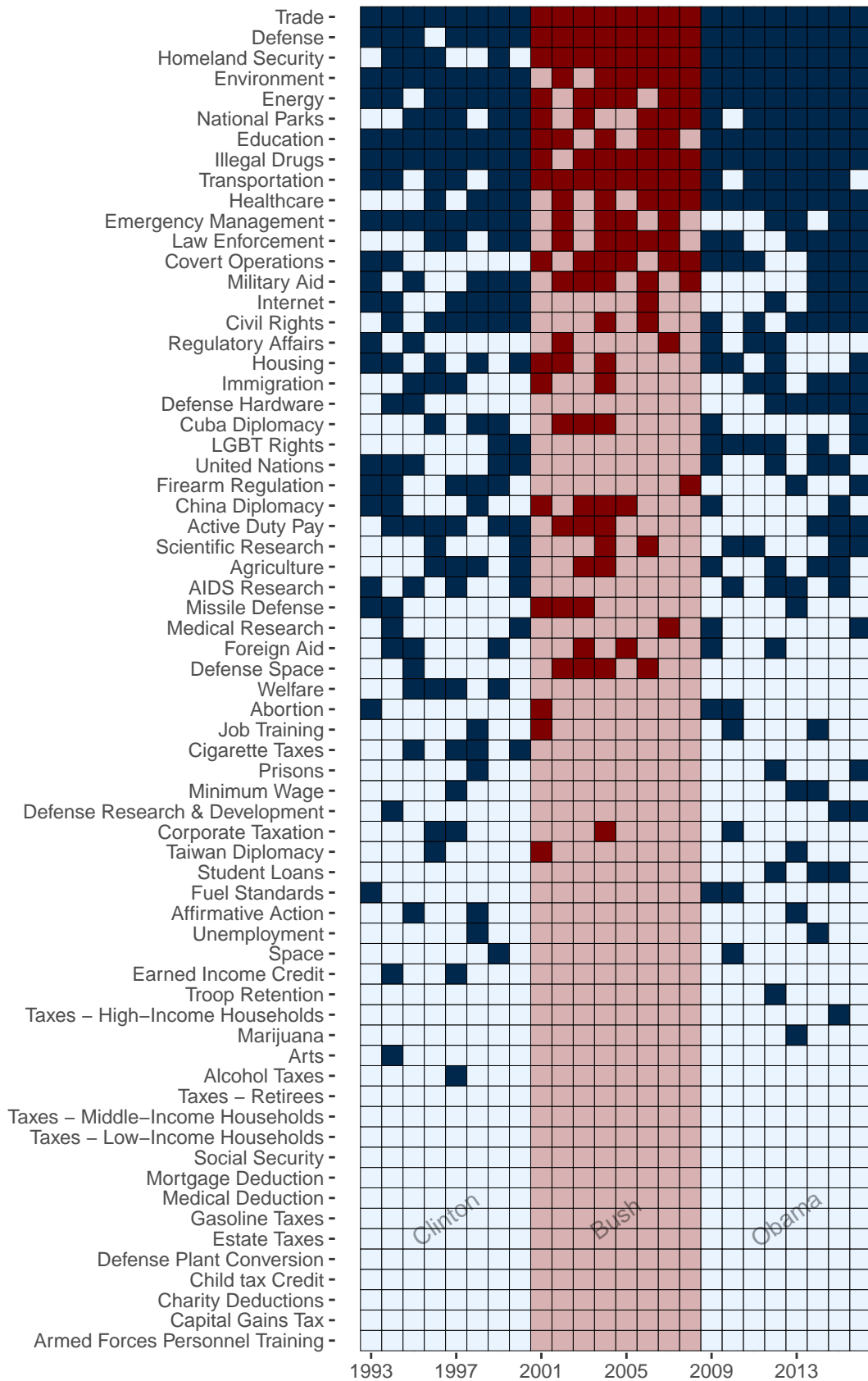
Though the majority of unilateral actions can be traced to some directive, it is important to include initiatives like the ones above. To do so, I consulted secondary sources. *CQ Almanac* provided contemporaneous accounts for each policy area and often contain contextual information about the actions of the sitting president. For example, the 2011 entry for congressional efforts to reform NCLB includes the Obama waivers.<sup>18</sup> For retrospective accounts, I consulted law reviews. Specifically, I conducted database search of *LexisNexis* for articles relating to presidential or executive power during the study period. These articles were read for cases of unilateral actions. As Table B6 indicates, most of these non-directive moves are regulatory actions and changes in enforcement decisions attributed to presidential administrations—most common in diplomatic relations, immigration, and civil rights.

In total, the procedure above results in 1,305 distinct executive actions in the 64 policy areas that routinely appear in the NPAT surveys over this period. The number of distinct executive actions culled in the 52 policy areas for which status quos can be estimated was 527, with 448 found in the GPO, and 79 found only in the other sources described above. Put differently, this data collection suggests that restricting attention to presidentially signed documents during this period omits 15% of unilateral

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<sup>17</sup>For video, see “The Corporate Inversions Tax Loophole: What You Need to Know”: <https://goo.gl/QXuZM3>

<sup>18</sup>“Congress Stymied on Education Law.” In *CQ Almanac 2011, 67th ed.*, edited by Jan Austin, 8-6-8-7. Washington, DC: CQ-Roll Call Group, 2012. <http://library.cqpress.com/cqa1manac/cqa1-1390-77518-2462230>.



**Figure 4 – Executive Actions, 1993-2016.** Darkened tiles indicate the president took at least one action. To aid in interpretation, 35 actions taken days before presidential administration changes are recoded to occur in the previous year.

action. Since executive orders account for a minority of actions, studies that only analyze these directives may exclude as much as 73% of actions. A complete reporting of executive action by data source and type appears in Table B6 of the SI. Figure 4 plots unilateral action in 64 policy areas from 1993-2016.

Figure 4 replicates several findings in studies of unilateral action. First and foremost, unilateral action during this contemporary period is frequent and covers diverse areas of public policy. The baseline probability of action is 30%, and 80% of policy areas include at least one action. Second, in line with studies of aggregate counts, both Democratic presidents tended to issue more actions than George W. Bush (46.9 v. 58.1 per year,  $p = 0.07$ ).<sup>19</sup> Third, there are more foreign affairs related actions, relative to domestic policy actions, which is largely consistent with robust findings in favor of the “two presidencies” thesis (e.g., Canes-Wrone, Howell and Lewis 2008). Finally, the policy areas acted upon by each president comport with stylized accounts of their preferences. George W. Bush’s actions are concentrated in defense, homeland security, and covert operations. Whereas Clinton and Obama were active in scientific and medical research, public healthcare, education, and national parks. One notable difference is that there are no distinguishable differences across divided and unified government or between the first four and last four years of the president’s term.<sup>20</sup>

This measure of unilateral action improves upon some aspects of other measures, but it is important to note that I forgo any attempt to estimate the “significance” of initiatives. This is for three reasons relating to the theory itself and past empirical work. First, the goal of this study is to test deductive versions of UAT with explicit assumptions. Put simply, there is no “significance” parameter in any of these theories. Second, the data collection procedure already omits many directives that would be removed using the standard rater procedure. Culling numerous mundane or irrelevant directives was necessary in past work because referring to many directives as meaningful proposals to change to the status quo strains credulity. By starting with the policy area in question and working backwards to collect all relevant actions, the dependent variable never includes chaff.

Finally, sophisticated means of measuring directive significance suggest that arbitrarily raising the bar for what “counts” as an important action does not meaningfully alter the relationship between action and key independent variables. Chiou and Rothenberg (2014, 2017) apply a hierarchical item response model to rate executive order significance; key point estimates vary only at the highest and

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<sup>19</sup>For example, Fine and Warber (2012) find Democratic presidents issued more major policy executive orders, and Ouyang and Waterman (2015) find conservatism to be negatively correlated with executive order and memorandum issuance.

<sup>20</sup>This is most likely because aggregating by year severely reduces statistical power.



lowest levels of executive order significance. Kaufman and Rogowski (2019) measure the significance of additional directives over a wider time series using supervised text analysis. Similarly, they find that at the highest level of directive significance, the effect of divided government approaches zero. This implies that, if order importance does matter substantially, the results in the next section should bias *in favor* of support for UAT. To ensure that this measurement decision did not explain the results, I determined that the executive orders included in my sample fall well within the significance region for which Chiou and Rothenberg (2017) find support for UAT. As Figure B2 in the SI suggests, the executive actions in this study are neither too insignificant or too high profile—they roughly equivalent in scope and importance, relative to those found in past work.

## Research Design

To test each model, I use the spatial location of policies to predict unilateral action in a given policy area and Congress. According to UAT, presidents should be more likely to act if status quos reside in the regions outlined by Figure 1. The predictions are evaluated with regressions that include Congress fixed-effects (unless otherwise noted), so the point estimates should be interpreted as describing variation across policy areas within a given Congress. The dependent variable is unilateral action, measured either dichotomously or as a count. Following Chiou and Rothenberg (2014), I limit these models to the inclusion of theoretically relevant variables. Notably, many of the factors that scholars have considered, such as periods of war, legislative capacity, divided government, administration-specific effects, or time-in-office, will be accounted for by Congress intercept shifts, and do not vary by policy area.

My main independent variables are indicators of whether the status quo is ripe for action. For all measures, I calculate the relevant pivots and reflection points from Figure 1 using the distribution of ideological preferences for a given Congress, as measured by CFscores (Table A4).<sup>21</sup> The indicators take a value of 1 if an estimated status quo is within the action region, and 0 otherwise. According to each theory, the relationship between these variables and unilateral action should be positive.<sup>22</sup> Presidents

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<sup>21</sup>There is very little discussion of these calculations in past work. But selecting pivots involves some researcher discretion because theories collapse the House and Senate into a single, unicameral legislature. Thus, to remain consistent with the theory, for veto-override and chamber/party medians, pivotal legislator is the one closest to the president. There is within-Congress variation as a result of deaths, appointments, resignations, and retirements. I recalculated pivots after removing members who served fewer than six months in a given Congress, and the key findings are robust to this alternative.

<sup>22</sup>Specifically, the point estimate should suggest that the probability of action is 1.00, which should be easily detectable in

should be first-movers on status quos that present an opportunities for favorable movement.

## Findings

Overall, I find no systematic support for models of unilateral action. The action regions depicted in Figure 1 do not seem to be associated with an increase in presidential initiatives—and under some specifications, they are negatively associated. These results are consistent across each version of UAT—no model systematically performs better than any other. Since this stands in contrast to most empirical work on the unilateral presidency, I discuss numerous potential explanations for this inconsistency, as well as the robustness of this finding to alternative estimation and measurement strategies.

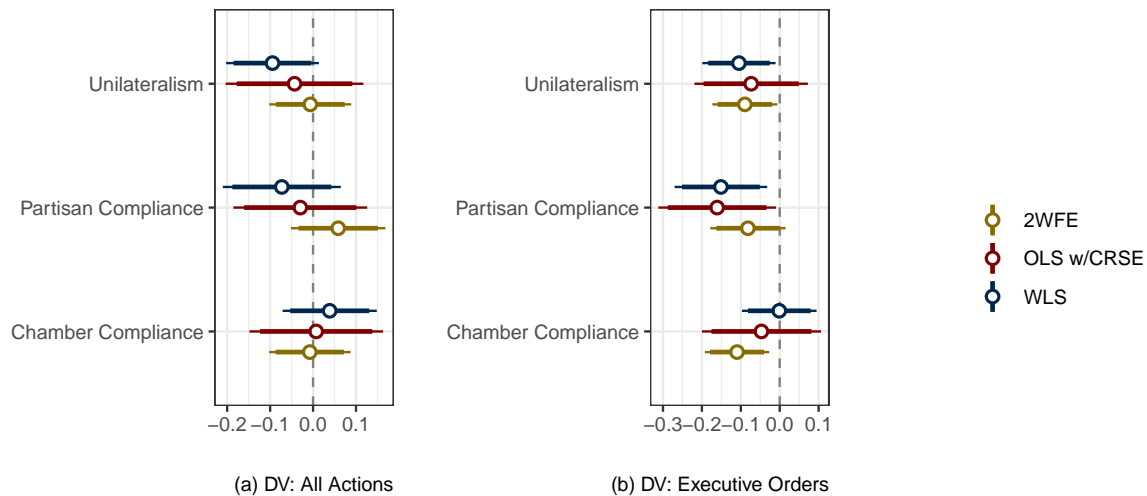
Figure 5(a) plots the key results for each specification and theory. For a given status quo policy, the point estimates are the marginal effect of being located in the theory's action region on the probability of unilateral action. Most strikingly, there is no specification for which the estimate is distinguishable from zero and in the predicted direction. This is considerably at odds with the spatial models from which these predictions are derived—which suggest that the president will act in these regions with probability 1. Moreover, few of the upper bounds of the 95% confidence intervals exceed a 15 percentage point *increase* in the probability of action, suggesting that the effect of these regions is either negligible or negative.

One possible explanation for these findings is that the dependent variable includes executive actions that are not executive orders. Other actions, such as changes in enforcement, rulemakings, or proclamations may have different theoretical dynamics because the actors that most often constraint them may be different. For example, the appropriate veto player for new rules may be the DC circuit. Figure 5(b) dispels this. The theories perform *worse* (i.e., the point estimates are farther from expectations) when the dependent variable is limited to actions taken via executive order. In most specifications, being within the action region is negatively associated with executive action. Model results and diagnostics for the underlying regressions in Figure 5 are reported in Table C7 of the SI.

Another possible explanation is that the models in Figure 5 do not account for the magnitude of executive action. Most prior research uses counts of directives as measures of period-specific productivity. It may be the case that coarsening the within policy-congress count increases measurement error sufficiently to bias toward the null. Table C8 suggests this is not the case. It reports the results

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these data.



**Figure 5 – Unilateral action theories poorly predict executive actions.** Plots the predicted change in the probability of action from separate least squares models. Dependent variables are dichotomous indicators for executive action, while key independent variables are dichotomous indicators for whether the status quo lies in the action regions from Figure efig:models. All models include Congress fixed effects. OLS w/CRSE indicates least squares estimates with standard errors clustered by policy area; WLS indicates least squares with observations weighted by the inverse bootstrapped standard error of the status quo estimate; 2WFE includes policy area fixed effects.

of the models above with the complete counts as a dependent variable in negative binomial regressions. The point estimates are also mostly negative with the 95% confidence intervals near 0, contrary to expectations.

Another concern is that the independent variables are measured with error. Each is estimated from a first-stage regression, then coarsened, potentially leading to bias (especially if left unmodeled). To take this into account, I adopt three approaches. First, to take into account status quos that are more uncertain because of a weak relationship between CFscores and survey responses, I use inverse error weighting in the final stage regressions. These are reported in the models labeled WLS in Figure 5 and Table C7 of the SI. Second, I apply this same strategy to the first stage regressions, more heavily weighting candidates whose CFscores are measured more precisely. These results are reported in Table C9 of the SI. Third, I use a continuous measure of each independent variable, which is the proportion of a status quo's 95% credible interval that overlaps with the relevant action region. The intuition behind this measure is that the uncertainty of the status quo may index the president's uncertainty in strategic situations. I report these results in Table C10 of the SI. The basic findings in Figure 5 are robust to each of these strategies, either individually or in combination.

Finally, as an alternative approach to reducing potential bias in the unbalanced panel, I also es-

timated models that include multiply imputed values for the empty tiles in Figure 2. The imputed values account for time and policy-specific dependencies (Honaker and King 2010), and also incorporate features known to social scientists to impact the likelihood of policy change: presidential approval ratings, party support in Congress, and the size of the gridlock interval. This was implemented with Honaker et al. (2011). Ultimately, this approach increases the precision of the point estimates without changing the substantive findings.

### **How Do First-Mover Theories Fail?**

To this point, I have shown that theories built on the president's first-mover advantage poorly fit observed cases of executive action. These policy-level findings stand in contrast to studies that analyze productivity in a given Congress, where UAT appears robust. Put differently, collectively, these findings are evidence of the ecological fallacy in presidency research. The failure of aggregate analyses to accurately predict unit-level outcomes, a phenomenon first observed in epidemiology, is most often applied in political science to explain the disconnect between macro- and micro-level studies of voting behavior (e.g., Kramer 1983; Matsusaka and Palda 1993). In this case, it suggests that the underlying models of presidentially-driven policy change inadequately describe particular cases.

If the predictions of UAT may only be instructive in the aggregate because of policy-level noise, it does not follow that the theories are "false." It may be that their predictions are only instructive as the number of policies and cases approaches some number that greatly exceeds the number of policies considered here. In other words, at this level of granularity, other features of policies—such as public attention, valence, electoral considerations, distributive incentives, or any other unmodeled phenomenon—are idiosyncratically more determinative than the separation of powers features modeled by UAT. Even this possibility would be informative, because the previous three decades of research on the presidency emphasizes the importance of these features.

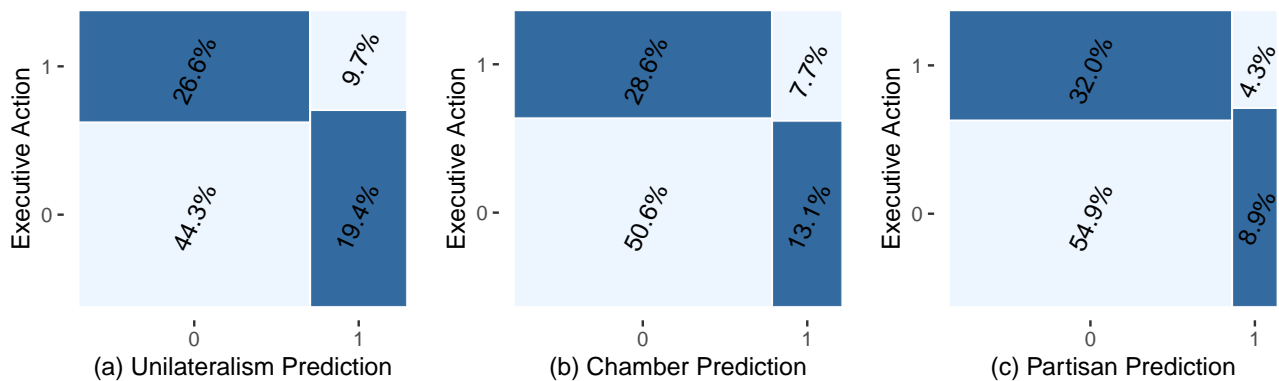
But this policy-level analysis enables more than testing comparative statics. It is evidence that speaks to perennial questions about the balance of presidential and congressional power. I ask *how* the the observed patterns differ from the theory. That is, these data reveal both "missed opportunities" (or false positives), in which UAT indicates the president had the opportunity to act but did not, and "aggressive mistakes" (or false negatives), in which the president acted despite theoretical obstacles.<sup>23</sup>

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<sup>23</sup>I borrow "aggressive mistakes" from Cameron and Kastellec (2016), who evaluate move-the-median games of Supreme

If missed opportunities outnumber aggressive mistakes, the president is less active than suggested by UAT. If the reverse is true, then UAT may underestimate presidential activity. Further, by examining where (in terms of ideological space) these status quos lie, and what policies they implicate, I address two related questions. What theoretical assumptions break down most often? Are there policies which consistently violate predictions?

To summarize the answers: first, overall, presidents are more active than *any* version of UAT would predict. Second, most of this error is driven by aggressive mistakes, or false negatives. Third, most aggressive mistakes address policies that UAT predicts will be acted on by the congressional median in equilibrium. In contrast to the classic “evasion” narrative in unilateral action, presidents do not appear to be overcoming gridlock—they act on policies Congress *should be* able to collectively act to change.



**Figure 6 – Presidents are more active than theories predict.** The outcome variable is a dichotomous indicator for whether the president took at least on action, via any instrument. The predictor is an indicator for whether the policy in question was within the action region during that Congress.

The shaded regions of Figure 6 plot aggressive mistakes and missed opportunities for each version of UAT. Importantly, the number of true positives is relatively low, and the inflated true negative rate is just as likely due to chance because of the observed variation in executive activity. That is, no theory accounts well for observed cases of unilateral action. In a straightforward, non-parametric way, this helps illustrate the estimation results in Figure 5. The overall rate of unilateral action is higher than predicted, and relatedly, this is mostly because of a high aggression (or false negative) rate. Moreover, the proportion of aggressive mistakes increases from the unilateralism model, to the chamber compliance model, and finally to the partisan compliance model. Recall that the latter two models impose

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Court nominations—using the term to describe cases in which the president tries to move the median farther away from the Senate median.

constraints on the president's proposal power. Importantly, though these models progressively underestimate the overall rate of action, they do not provide a noticeably worse fit, so these data do not suggest that these proposal assumptions are determinative—or that any of the theories should be preferred over the other. Several other notable patterns emerge from these top-line rates after examining the policies that make up the pool of aggressive actions and missed opportunities.

**Discretion.** Some of the policy areas theoretically ripe for presidential action that end up counted as a missed opportunity fall outside the president's constitutional and statutory discretion. Examples include the size of tax deductions, and tax rates for various income brackets. Though I have mentioned some notable examples of presidentially-driven tax policy change, Figure 4 clearly indicates presidents are mostly inactive with respect to taxation, where the president possesses little leeway to change policy. Moreover, any change would be reversed in court. To ensure that the results were not driven by this pattern, I re-estimated the models excluding this subset of taxation policies, which the president has little to no discretion over.<sup>24</sup> As Figure C3 and Table C11 in the SI indicates, the findings in this study are mostly robust to dropping these cases. The lone exception is the two-way fixed effects, partisan compliance model regressed on all actions, which is positive and distinguishable from zero at conventional levels of significance.

Thus, taking discretion into account does not improve the fit of the models. Notably, the comparative statics of UAT are not conditioned on discretion. In fact, even if the president has no discretion, according to the theories depicted in Figure 1, the president still acts in equilibrium (Chiou and Rothenberg 2017: 51). One possibility is that action regions that *were* conditional on discretion might perform better. The substantive takeaway is that the pattern of observed executive action suggests that whether the president has the authority to act is more important than previously thought. More specifically, UAT typically models discretion as an exogenous parameter that scales policy change. The “executive action despite no discretion” prediction is an artifact of the assumption that exceeding the scope of the president's authority is only costly in terms of the prospects for policy reversal. However, if reversals were not assumed “frictionless,” it would be more in-keeping with these data.

**Congressional Dysfunction.** The spatial location of aggressive mistakes suggests one of two possi-

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<sup>24</sup>Specifically, the results exclude income and corporate tax rates, as well as all deductions, credits, and excise taxes.

bilities. The first is that the theories underestimate the degree of congressional dysfunction. Most aggressive mistakes are “extreme” status quos—they are in the exterior liberal or conservative policy regions outside the core executive action region. More specifically, they are to the left (right) of the filibuster pivot ( $f$ ) and to the right (left) of the relevant reflection point ( $2v - m_c$ , or  $2m_p - m_c$ ) for conservative (liberal) presidents.<sup>25</sup> According to the theory, the president cannot benefit from unilateral action because the congressional median (chamber or otherwise) will be able to propose an alternative that defeats the president.

One explanation for this inconsistency is that the theory demands more than the Congresses of this period are capable of. In terms of theory, this means a breakdown in Congress’ capacity to propose alternatives after unilateral action. Legislative capacity has been considered as a moderating variable in analyses of executive productivity (e.g., Bolton and Thrower 2016), and the vast writing on the decline of capacity in the U.S. Congress spans scholarship (e.g., Fowler 2015; Crosson, Furnas and LaPira 2018) and the popular press (e.g., Burgat and Dukeman 2018; Pascrell 2019). If this “decline” impacts lawmaking during the contemporary period analyzed (1993-2016), then it could account for the disconnect between theory and data. However, the implications of the dysfunction thesis are stark and analytically unsatisfying. If the congressional proposal power breaks down, there are essentially no constraints left (in these theories) on presidential proposal power. Some argue alternative constraints like the public (e.g., Christenson and Kriner 2016; Reeves and Rogowski 2015) or bureaucrats (e.g., Rudalevige 2012; Lowande 2018) operate. But these would have to be sufficient to restrain a president functionally free of the congressional median.

**False Fronts.** The outcome of interest is unilateral action, measured as the instance of some presidential policy proposal or initiative. The implicit measurement assumption is that these cases enact new policy. This assumption runs through nearly every study of presidential unilateral action. But the phenomenon of unilateral action may be ill-suited to models that imply the ultimate outcome is most often zero-sum policy movement. Many actions—even those that receive attention from careful observers—lead to no policy change.

Even a cursory look at the initial wave of Trump administration executive orders bares this out.

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<sup>25</sup>This is why the chamber and partisan compliance models do not provide a better fit—their conditional reductions in the unilateralism region only add interior status quo policies to number of false negatives.

The first order to acquire the president's signature appeared to make the president the first-mover in the repeal of the Affordable Care Act (ACA).<sup>26</sup> But its ambiguity is telling. It ordered applicable cabinet secretaries to provide "greater flexibility" to states in implementation without providing direct orders to remove or reduce subsidy payments. Any action under the vague directive would need to be delayed, moreover, because the relevant officials would not take office for over 3 weeks. Action to end key subsidies eventually came later in the year under a different executive order, after repeated failures to repeal the ACA wholesale.<sup>27</sup> The frequency of order issuance was even touted as an accomplishment in a press release at the 100 day mark.<sup>28</sup> This kind of action is not limited to the Trump administration. A naive reading of President Obama's directives would lead an observer to conclude that the prison at Guantanamo Bay was closed and that gun violence research has been publicly funded. Neither directive led to the policy change specified in their preamble.

Yet, it is not difficult to make the case that presidents benefit from *signaling* action—even if the status quo remains unchanged. The act itself may have consumptive value that outweighs the minimal cost of issuing a directive. Alternatively, these actions may be primarily designed to convince supporters the president has followed through on key promises (e.g., Judd 2017; Kang 2018). These ideas point to a different family of models in which presidents attempt to persuade constituents. The fact that the action leaves the status quo intact may be irrelevant, as voters have difficulty observing the details of implementation, and confirmation bias predisposes them toward believing the president they voted for has acted in their interest. In short, unilateral action may be a "false front" in terms of concrete policymaking—more performative than substantive.

## Discussion

The idea that presidents unilaterally change public policy is critical to how scholars, pundits, and the public view the presidency. In the context of studying executive power, it is difficult to overstate its importance. It motivates an ongoing research agenda, and more generally, stimulated the engagement

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<sup>26</sup>Executive Order 13765. "Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal," Federal Register, January 20, 2017.

<sup>27</sup>Executive Order 13813. "Promoting Healthcare Choice and Competition Across the United States," Federal Register, October 12, 2017.

<sup>28</sup>See: <https://goo.gl/RrHnp9>



of theory and data in presidency research.

Most of this empirical work, however, shares important limitations. The variable to be explained—a count of directives—is disconnected from the underlying theories of policy movement. Moreover, measures of executive productivity are subject to numerous sources of error. In an effort to address these limitations, I replicated and extended methods to measure the positions of individual status quo policies, and presented a new and comprehensive measure of unilateral action. This produced two important descriptive findings. First, the distribution of status quo policies is not uniform, though status quos appear across the full spectrum of candidate preferences. Second, the broader universe of executive action is more expansive than previously accounted for systematically. As much as 15% of unilateral actions may be omitted by analyses that exclude non-presidential directives, and any analysis that examines one type of directive in isolation omits a majority of unilateral action.

Most importantly, after these measurement improvements and analyzing policy-level variation, I find that UAT poorly predicts status quo policies addressed by presidential initiatives. This is at odds with numerous empirical tests of second-order predictions of UAT, and suggests that this area of research may be subject to the ecological fallacy. This study also considered numerous explanations for these findings—including attempting to exhaust those related to data, measurement, and estimation. Despite that, I was mostly unable to recover any affirmative evidence in support of unilateral action theory.

Still, important limitations to this study remain. In moving from macro-level analysis of productive to a micro-level analysis of policies subject to presidential initiatives, I reduced the time series under consideration. This means that this critical discussion cannot speak to earlier periods, when UAT may well prove to be a reliable predictor of policy change. Moreover, this study was restricted in scope by a finite set of policy areas, and it is possible that UAT would perform better in some unanalyzed subset. Finally, though this study gets closer to cleanly testing UAT's implications, it is *not* a direct test, because I cannot measure the direction and degree of change proposed by each action.

Despite these limitations, adopting this different empirical approach subjected UAT to the additional evaluation that established theories demand. There are no shortages of explanations when standard theories put to new data do not perform well. In light of this fact, I offered substantive explanations for the disconnect, based on a close comparison of the theories predictions and observed data, as well as a close read of some important cases. One minor amendment to the theory suggested by these data is to relax the frictionless character of the consequences of exceeding presidential discretion.

But more critically, the high incidence of false-negatives, or aggressive mistakes suggests fundamental assumptions in UAT must be rethought. Either the previous three decades have seen a breakdown in Congress' ability to legislate alternatives to executive action, or the actions themselves need no congressional because they are false fronts with no impact on the status quo. Since the substantive implications of these alternatives could not be more stark, it is important to highlight that these possibilities are not mutually exclusive. Some subset of actions may have no impact on policy, while others seemingly overcome the backstops set up by the separation of powers to check a sitting president.

This reveals a broader point suggested by this analysis about the study of executive power. In an institutional environment like presidential unilateral action, where rules are often in flux and informal, it may be unreasonable to expect any single theoretical model to capture the dynamics in the majority of initiatives. This suggests parallel theoretical and empirical ways forward: developing meta-theories designed to explain why presidential actions follow different strategic contexts, and investing in careful measurement strategies designed to distinguish between these relevant cases.

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**Supporting Information (Online)**  
*Presidents and the Status Quo*  
Kenneth Lowande

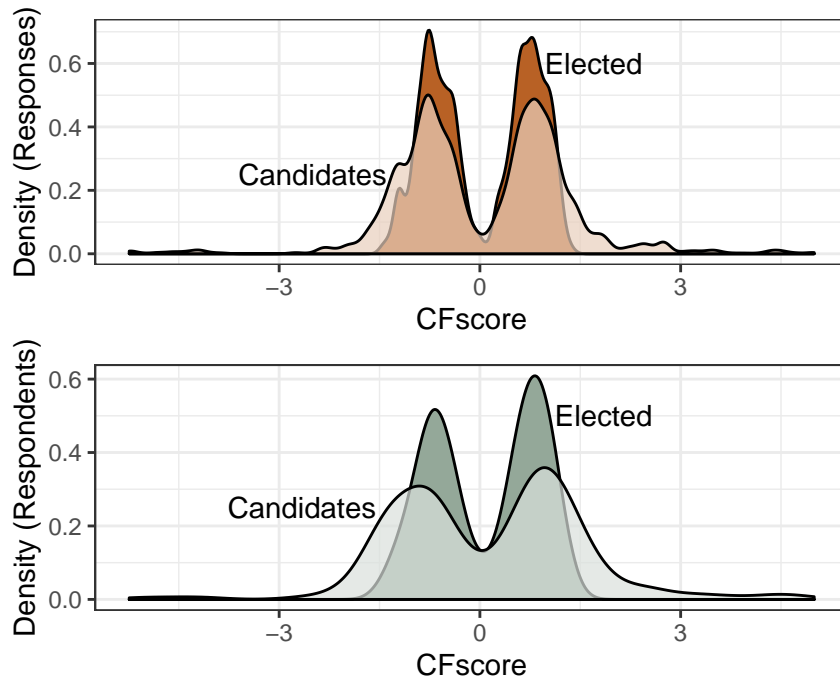
## Status Quo Estimation Diagnostics

Access to NPAT data was obtained through subscription to Project VoteSmart’s (<https://votesmart.org/>) Political Courage Test archive. VoteSmart makes these data available on the condition that they not be redistributed. Each edition of the NPAT survey is stored in a CSV file, with long-form survey question format and columns that are not uniquely identified. No survey meta-data is stored in the files themselves. Respondents are only identified via unique names, and thus, have to be matched to VoteSmart’s candidate ID masterfile (obtained at <https://github.com/votesmart/political-id-match>). Some CSVs contained obvious errors, such as including open-ended responses in Likert questions or misaligning rows for complete respondents. In general, I found that these errors were concentrated in a small number of candidates that were not matchable to Bonica (2016), as they tended to be third-party candidates with little public support.

I restricted the sample to candidates and responses that could be matched to DIME+ 2.0 (<https://data.stanford.edu/dime>). Though this limits the overall sample considerably, the vast majority of major party candidates are matched, and the sample represents a considerable improvement (in terms of sample size and representativeness) over using preference measures of officials who held elected office (see Table A1 and Figure A1).

Source	Responses	Respondents
Project Votesmart	546215	6413
DIME+	155580	1328
Voteview	96059	488

**Table A1 – NPAT Response Matching by Preference Measure, 103-115 Congress.** Respondents matched using name, state, cycle year, and office via fastLink.



**Figure A1 – Using candidates improves coverage of the distribution of political preferences from the 103th - 115th Congress.** Plots the density of ideological positions in Congress and among candidates, based on CFscores matched NPAT responses. The top panel plots responses, whereas the bottom panel shows respondents.



Policy	Answer Format	Congresses	Matched N
Active Duty Pay	6-point, Funding	107-108	732
Active Duty Pay	6-point, Simple	105-106, 110-112	2472
Agriculture	6-point, Funding	108	330
Agriculture	6-point, Simple	109-115	2666
AIDS Research	3-point, Spending	103	96
AIDS Research	6-point, Simple	104-106	1196
Alcohol Taxes	6-point, Simple	104-112, 114-115	3932
Armed Forces Personnel Training	6-point, Funding	108	332
Armed Forces Personnel Training	6-point, Simple	105-106, 109-111	2288
Arts	6-point, Funding	107-108	728
Arts	6-point, Simple	105-106, 109-115	3546
Capital Gains Tax	6-point, Simple	104-106, 108-115	4118
Charity Deductions	6-point, Simple	105-111	2864
Child tax Credit	6-point, Simple	106-111	2466
Cigarette Taxes	6-point, Simple	104-112, 114-115	3622
Corporate Taxation	6-point, Simple	107-114	3910
Covert Operations	6-point, Funding	105-106, 109-112	330
Covert Operations	6-point, Simple	108	2844
Defense	6-point, Funding	107-108	728
Defense	6-point, Simple	104, 109-115	3056
Defense Hardware	6-point, Funding	107-108	718
Defense Hardware	6-point, Simple	105-106, 109-112	2820
Defense Plant Conversion	6-point, Funding	107	392
Defense Plant Conversion	6-point, Simple	105-106	834
Defense Research & Development	6-point, Funding	107-108	718
Defense Research & Development	6-point, Simple	105-106, 109-112	2818
Defense Space	6-point, Funding	107	392
Defense Space	6-point, Simple	105-106	850
Earned Income Credit	6-point, Simple	105-111	2510
Education	3-point, Spending	103	192
Education	6-point, Funding	107-108	744
Education	6-point, Simple	104-106, 109-115	3904
Emergency Management	6-point, Simple	110-111	1048
Environment	3-point, Spending	103	96
Environment	6-point, Funding	107-108	730
Environment	6-point, Simple	104-106, 109-114	3888
Estate Taxes	6-point, Simple	105-115	3212
Firearm Regulation	6-point, Simple	111	604
Foreign Aid	6-point, Funding	107-108	728
Foreign Aid	6-point, Simple	109-115	3452
Gasoline Taxes	6-point, Simple	108-112	2924
Healthcare	3-point, Spending	103	94
Healthcare	6-point, Funding	108	334
Healthcare	6-point, Simple	104, 109-111	1786
Healthcare - Medicaid	6-point, Simple	105-106	828
Healthcare - Medicare	6-point, Simple	105-106	828
Homeland Security	6-point, Funding	108	334
Homeland Security	6-point, Simple	109-115	2224
Housing	6-point, Simple	105-106	834
Illegal Drugs	3-point, Spending	103	96
Illegal Drugs	6-point, Simple	104-106	356
Job Training	6-point, Simple	104-106	1184
Law Enforcement	6-point, Funding	107-108	726
Law Enforcement	6-point, Simple	104-106, 109-111	2632
Medical Deduction	6-point, Simple	105-111	2850
Medical Research	6-point, Funding	107-108	732
Medical Research	6-point, Simple	109-115	2232
Missile Defense	6-point, Funding	107-108	724
Missile Defense	6-point, Simple	105-106, 109-112	2840
Mortgage Deduction	6-point, Simple	105-111	2844
National Parks	6-point, Funding	107-108	730
National Parks	6-point, Simple	109-111	1448
Scientific Research	6-point, Funding	107-108	728
Scientific Research	6-point, Simple	109-115	2228
Social Security	6-point, Simple	104, 114-115	572
Space	6-point, Funding	107-108	732
Space	6-point, Simple	105-106, 109-115	3538
Student Loans	6-point, Simple	105-106, 108-111	2532
Taxes - High-Income Households	6-point, Simple	104-106, 108-115	3906
Taxes - Low-Income Households	6-point, Simple	105-106, 108-115	3722
Taxes - Middle-Income Households	6-point, Simple	104-106, 108-115	4030
Taxes - Retirees	6-point, Simple	105-106	782
Transportation	6-point, Funding	107-108	730
Transportation	6-point, Simple	104, 109-111	1814
Troop Retention	6-point, Funding	107-108	732
Troop Retention	6-point, Simple	109-112	1968
Unemployment	3-point, Spending	103	92
United Nations	6-point, Simple	111-115	1914
Welfare	6-point, Funding	107-108	722
Welfare	6-point, Simple	105-106, 109-115	3516

**Table A2 – NPAT Policies and Question Formats.** Reports question and answer formats by policy and election cycle. ‘3-point, Spending’  $\in$  {Increase Spending, Maintain Status Quo, Decrease Spending}, ‘6-point, Funding’  $\in$  {Greatly Increase Funding, Slightly Increase Funding, Keep Funding the Same, Slightly Decrease Funding, Greatly Decrease Funding, Eliminate}, ‘6-point, Simple’  $\in$  {Greatly Increase, Slightly Increase, Keep the Same, Slightly Decrease, Greatly Decrease, Eliminate}. Questions either ask about the level of funding, taxation, or enforcement.

Cong.	Policy	N	Matched	Decrease	Maintain	Increase	Model	SQ	SQ (SE)	SQ LB	SQ UB	$\beta$	SE
115	Welfare	311	59	20	26	13	weighted	-0.22	0.16	-0.55	0.09	-1.00	0.08
111	Mortgage Deduction	608	322	33	205	84	weighted	3.67	2.23	-5.24	4.99	-0.11	0.02
114	Estate Taxes	222	57	27	14	16	weighted	-0.73	0.14	-0.99	-0.44	-1.27	0.09
110	Covert Operations	694	201	16	56	129	baseline	-3.91	1.01	-5.24	-2.09	0.24	0.06
105	Covert Operations	966	224	86	118	20	baseline	0.98	0.11	0.69	1.14	0.81	0.10
105	Armed Forces Personnel Training	953	224	9	104	111	weighted	-2.87	1.10	-5.24	-1.59	0.31	0.04
108	Welfare	709	164	44	83	37	baseline	-0.09	0.15	-0.37	0.21	-0.61	0.10
104	Education	686	177	26	77	74	baseline	0.70	0.10	0.52	0.89	-1.15	0.13
105	Welfare	923	208	123	66	19	baseline	-1.02	0.15	-1.39	-0.80	-0.75	0.10
111	Covert Operations	643	325	31	100	194	baseline	-5.24	0.65	-5.24	-3.75	0.12	0.04
105	Job Training	955	212	48	63	101	weighted	0.53	0.07	0.39	0.66	-1.37	0.05
112	Arts	616	273	144	75	54	weighted	-0.59	0.11	-0.77	-0.33	-0.73	0.03
113	Education	511	237	104	28	105	baseline	-0.01	0.11	-0.22	0.20	-0.63	0.05
110	Defense Hardware	681	195	42	78	75	weighted	-0.78	0.15	-1.09	-0.47	0.59	0.04
107	Corporate Taxation	811	163	121	36	6	weighted	-1.87	0.26	-2.34	-1.35	-0.85	0.05
108	National Parks	714	169	13	83	73	baseline	1.36	0.39	0.87	2.40	-0.54	0.10
113	Corporate Taxation	501	236	127	37	72	weighted	-0.51	0.12	-0.76	-0.29	-0.72	0.03
110	Welfare	682	198	51	99	48	baseline	-0.23	0.16	-0.56	0.07	-0.49	0.07
110	Emergency Management	685	197	8	52	137	weighted	4.99	1.60	2.33	4.99	-0.16	0.03
108	Alcohol Taxes	691	158	32	100	26	weighted	-0.15	0.15	-0.44	0.14	-0.64	0.05
106	Cigarette Taxes	754	188	14	92	82	baseline	0.99	0.13	0.78	1.30	-1.04	0.12
109	Mortgage Deduction	689	177	8	135	34	weighted	-3.35	2.29	-5.24	4.99	0.18	0.04
106	Armed Forces Personnel Training	798	205	2	66	137	baseline	-3.23	1.11	-5.24	-1.94	0.43	0.09
108	Mortgage Deduction	659	160	5	113	42	weighted	-2.38	1.33	-5.24	-1.14	0.27	0.04
110	Taxes - Middle-Income Households	630	177	73	90	14	baseline	-1.67	0.37	-2.46	-1.04	-0.45	0.07
108	Taxes - High-Income Households	684	159	69	53	37	baseline	-0.36	0.08	-0.49	-0.19	-1.15	0.12
111	Arts	654	330	126	101	103	weighted	-0.04	0.09	-0.23	0.14	-0.72	0.03
106	Active Duty Pay	799	209	2	23	184	weighted	-5.24	0.48	-5.24	-3.80	0.27	0.04
103	Healthcare	393	47	4	21	22	weighted	1.27	1.55	-2.96	4.99	-0.46	0.08
113	Environment	509	238	120	45	73	baseline	-0.63	0.12	-0.83	-0.34	-0.61	0.05
108	Defense Hardware	716	167	28	55	84	baseline	-0.99	0.25	-1.56	-0.58	0.51	0.09
108	Active Duty Pay	724	171	2	8	161	baseline	4.99	4.95	-5.24	4.99	-0.01	0.09
107	Defense Hardware	906	192	50	88	54	weighted	-0.03	0.09	-0.19	0.17	0.80	0.04
112	Space	613	273	103	115	55	baseline	-1.97	1.25	-5.24	-0.54	-0.12	0.04
111	National Parks	655	329	32	176	121	baseline	1.74	0.35	1.17	2.55	-0.30	0.04
107	Medical Deduction	895	177	43	104	30	weighted	-0.17	0.09	-0.33	0.03	-0.97	0.05
109	Corporate Taxation	713	175	46	65	64	weighted	-0.05	0.08	-0.20	0.10	-1.11	0.05
111	Estate Taxes	634	324	190	77	57	weighted	-1.09	0.10	-1.19	-0.80	-0.79	0.03
105	Missile Defense	962	226	100	54	72	weighted	0.41	0.05	0.31	0.49	1.60	0.05
104	Education	686	177	26	77	74	weighted	0.70	0.10	0.53	0.91	-1.24	0.05
110	Missile Defense	694	200	98	55	47	baseline	0.61	0.16	0.22	0.84	0.57	0.07
110	Capital Gains Tax	645	184	79	54	51	baseline	-0.46	0.10	-0.64	-0.26	-0.82	0.08
115	Foreign Aid	319	60	30	21	9	weighted	-0.81	0.31	-1.52	-0.37	-0.72	0.06
106	Space	793	205	59	115	31	baseline	-5.24	3.22	-5.24	4.99	-0.02	0.08
109	Missile Defense	752	191	96	53	42	baseline	0.57	0.12	0.32	0.77	0.75	0.08
110	Covert Operations	694	201	16	56	129	weighted	-3.83	0.83	-5.24	-2.42	0.31	0.03
111	Medical Research	653	330	39	95	196	weighted	2.40	0.32	1.82	3.08	-0.45	0.02
115	Capital Gains Tax	314	60	27	13	20	weighted	-0.34	0.13	-0.63	-0.11	-1.19	0.08
108	Charity Deductions	666	160	6	69	85	weighted	-2.66	0.72	-4.79	-1.91	0.40	0.04
110	Mortgage Deduction	622	181	13	127	41	baseline	3.01	3.46	-5.24	4.99	-0.12	0.08

**Table A3 – Random Sample of SQ Estimation Results.** Reports 50 randomly selected status quo estimation results and diagnostics. ‘Matched’ indicates the number of matched respondents to Bonica (2016). ‘Decrease’, ‘Maintain’, and ‘Increase’ indicate the number of matched responses who asked that funding or enforcement be decreased, remain the same, or increased. ‘weighted’ indicates respondents weighted by the number of givers used to estimate CFscore.  $\beta$  is the regression coefficient describing the directional relationship between the question and CFscores, while ‘SE’ is its standard error.

Though the underlying preference measures are different, the results in Table A3 are either comparable or improve upon those found in Richman (2011). Notably, my procedure differed in two ways. First, I did not exclude status quos predicted to be at the extreme liberal or conservative positions. This is because these independent variables are coarsened prior inclusion in a model, and UAT implies that these extreme positions should not be acted on. Second, I did not exclude status quos where CFscores did not predict underlying survey responses with conventional levels of statistical significance, i.e.,  $p < 0.05$ . (This accounted for fewer than 10% of policy-congress cases, so the results in Figure 5 are robust to excluding them.) This cutoff is arbitrary, and in general, the increase in sample size means most coefficients are precisely estimated.

Instead, for each test of UAT, I weight the status quos by an inverse uncertainty measure, the bootstrapped standard error of the status quo. One drawback is that this SE can be deflated for extreme status quos, because the preference distribution is bounded by the observed distribution of CFscores,  $[-5.24, 4.99]$ . The results in Figure 5 are robust to weighting by an alternative uncertainty measure (either the standard error for the coefficient or the p-value).

Congress	$p$	$f$	$v$	$m_c$	$m_p$	$2v - m_c$	$2m_p - m_c$
103	-0.79	0.21	-0.43	-0.11	-0.47	-0.76	-0.83
104	-0.79	0.55	-0.31	0.20	-0.48	-0.82	-1.15
105	-0.79	0.62	-0.39	0.28	-0.58	-1.06	-1.43
106	-0.79	0.62	-0.40	0.28	-0.59	-1.08	-1.47
107	0.86	-0.43	0.67	0.30	0.80	1.04	1.30
108	0.86	-0.43	0.70	0.34	0.81	1.06	1.27
109	0.86	-0.43	0.76	0.44	0.86	1.07	1.28
110	0.86	-0.49	0.71	-0.12	0.87	1.54	1.86
111	-1.11	-0.11	-0.68	-0.51	-0.74	-0.84	-0.98
112	-1.11	0.65	-0.50	-0.43	-0.75	-0.57	-1.07
113	-1.11	0.57	-0.59	-0.58	-0.84	-0.60	-1.10
114	-1.11	0.88	-0.52	0.57	-0.84	-1.61	-2.25
115	0.88	-0.68	0.95	0.66	0.99	1.23	1.32

**Table A4 – Pivots and Reflection Points, 103-115th Congress.** Quantities computed after removing legislators who left office fewer than 6 months into a given Congress; 6.4% of member CFscores imputed using 1st and 2nd dimension Commonsense NOMINATE scores, party, and age.  $m_p$  indicates the median of the president’s party closest to president;  $m_c$  indicates the median of chamber closest to president.

## Action Coding Protocol and Diagnostics

This appendix provides additional detail about how the dependent variables were constructed.

### Definition:

“Unilateral action” is an attempt by presidents and their agents to change existing public policy through executive administration. It can occur via presidential directive (e.g. executive order, proclamation, memoranda) or through internal discussions and initiatives that lead to non-presidential directives (e.g. departmental memoranda, agency rulings, regulations, or notices). Actions excluded by this definition include, but are not limited to:

- Commemorative directives or initiatives, including designated “weeks” or “days” focused on particular policies.
- Regulatory actions not explicitly directed by presidents.
- Amendments to orders of succession and adjustment of rates of pay (except in the case of active duty military).
- Task forces and commissions ordered to deliver recommendations for proposed legislation.

### Procedure:

*Presidential directives:* the universe of presidential directives from 1993-2016 were obtained from two sources. The primary source is the *Compilation of Presidential Documents*, published online (<https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CPD>) by the GPO. I obtained a list of directives by scraping every entry. Note, the version scrapped is now deprecated after the late-2018 transition from FDSys to govinfo. The *Compilation* contains more than 30,000 entries during this period, and includes appointee nominations, speeches, press releases, legislative commentary, reorganization plans, and more. The list was then subset to all identifiable directives. I identified several types: executive orders, letters, presidential memoranda, proclamations, determinations, military orders, directives, and those labeled as “other.” The second source was declassified lists of national security directives, which can be found here: <https://fas.org/irp/offdocs/direct.htm>.

1. To obtain most likely matches for hand coding, I used the full text of each entry and a policy-specific dictionary to generate match frequencies. In general, all relevant actions were contained in the 20 orders with the highest match rate. To ensure that no directives were missed, the threshold for matches was lowered to produce a minimum of 50 matches.
2. From this set of matches, at least one coder read and labeled directives which were relevant to the policy topic. There were a total of 5 unique raters across 64 policy areas, with the typical rater hand-coding 20 policy areas. Most of these were straightforward and can be collected quickly. For example, all adjustments to national parks and monuments occur via proclamation. All adjustments to military basic pay follow the same template. There are no changes to excise taxes (e.g., alcohol, tobacco, gas) via directive.
3. To gauge the relative difficulty of each topic area, inter-coder reliability statistics were obtained for those areas coded by multiple raters. Difficult topics with low ratings were typically broad (e.g., Homeland Security and Defense). For these topics, disputed directives were resolved by the author.
4. Finally, to eliminate remaining false positives, the entire list of culled directives was reviewed by the author.

*Non-presidential directives:* Non-directive initiatives were collected via two sources.

1. I used keyword searches for presidential action (i.e., “executive authority” or “executive action” or “administration directive” or “administrative waivers” or “waiver policy”) to obtain relevant entries for each policy area in the *CQ Almanac*. This resulted in 38 matches. From these, only 4 relevant, non-duplicated actions were found (they were: NCLB waivers, Race-to-the-Top, and two Clinton-era Welfare regulatory changes).
2. I used keyword searches to obtain relevant articles referencing presidential actions from a repository of law reviews in *LexisNexis Uni*. These terms were “(bush or obama or trump or clinton) and president and (‘executive action’ or ‘presidential directive’ or ‘unilateral action’ or ‘executive authority’) and not ‘book review’ ”. Date range was restricted to January 1, 1993 to the present. Including all law reviews, this returned 8,107 results. Only the first 200 were read by two raters because no non-duplicated examples of executive action were found after entry #146. From this procedure, 101 distinct, non-duplicated (within the set of law reviews) executive actions were found.

The sources above were consolidated and duplicates were removed to arrive at the final list of 1,305 actions.

## Dictionary:

Reported in Table B5, below.

Policy	Terms	Matches	Top 4 Terms (if applicable)
Defense	armed forces, air force, armies , army, militar, navy, north atlantic trat, mutual securit, arms control, arms reduc, nonprolifer, nonprolifer, proliferation, nuclear disarm, chemical weap, peacekeeping, enriched uranium, department of defense, secretary of defense, centcom, command, use of military force, defense intell, afghanistan, pakistan, yemen, syria, iraq, korea, georgia, somalia, war powers resol, war, troop, deploy, nofly, nato	334	militar, war, iraq, secretary of defense
Emergency Management	federal emergency management, fema, disaster assistance, emergency, natural disaster, stafford, national dam safety, earthquake hazards, mckinney homeless, emergency planning, disaster prepare, ready campaign, hurricane, flood, national flood insuran, domestic prepare	283	emergency, flood, hurricane, federal emergency management

Dictionary continued on next page

Policy	Terms	Matches	Top 4 Terms (if applicable)
Trade	tariff, quota, reciprocal trade, embargo, most favored, north american free, transpacific, trade, nafta, gatt, wto, generalized system of pref, dutyfree, trade representative, ustr, adjusting import	282	trade, tariff, ustr, nafta
Homeland Security	domestic security, national protection, national security, department of homeland security, secretary of homeland security, intelligence sharing, real id, cybersecurity, critical infrastructure, wmd , weapons of mass destruction, terrorism, border security, infrastructure security, natural disaster, election security, emergency communicat, human traffick, transportation security, signals intellig, national preparedness, intelligence reform, 911 commissi, stafford, emergency management, immigration and nationality, maritime transport, safe port act	249	national security, terroris, secretary of homeland security, critical infrastructure
Environment	environment, climate change , extinct , endangered, global warming, smog, air quality, pollut, greenhouse gas, sustainabl, hazardous waste, contaminat, conservation, reforestation, ozone, sea level, coal , green technology, drought , wildfire, flood, hurricane, environmental protection agency, department of energy, department of interior, secretary of the interior, secretary of interior, secretary of energy, clean air act, toxic substances control, clean water act, energy independence and security, fifra, nuclear waste policy, safe drinking water, shore protection, superfund, climate action	221	environment, conservation, secretary of the interior, pollut
Regulatory Affairs	oira, regulatory affairs, regulatory, regulation, agency rulemaking, management and budget, unified regulat, unified agend, centralized review, rulemaking, regulatory policy, oira administrat	191	regulation, regulatory, management and budget, oira
Transportation	airline, air service, air traffic, air travel, avaitaion, bridges, rapid transit, mass transit, mass transport, public transit, public transport, infrastructure, rail, railway, shipping, subway, transporta, truck, highway, speed limit, cargo, freight, toll road, congestion , pedestrian, drivers license, department of transportation, secretary of transportation, transit benefit, scenic byway, nextgen air, drive sober, distracting driv, dot , recovery act, automobiles, roadway, bridges , build america, tiffa , infrastructure finance, railroad rehab, rail safety, surface transport	153	infrastructure, transporta, secretary of transportation, rail
Energy	coal, natural gas, oil, energy, ethanol, department of energy, secretary of energy, alternative fuel, wind, solar, nuclear power, oil exploration, nuclear react, alternative energy, renewable, cap and trade, pollution credits	150	energy, oil, renewable, secretary of energy
Social Security	social securi, ssa, social security admin, commissioner, security benefits, retirement	148	ssa, commissioner, social securi, social security admin
Affirmative Action	affirmative action, discriminat, secretary of labor, department of labor, contractor, subcontractor, compliance report, contracting agencies, minority owned, equal employment, certificate of merit, diversity, race, gender, national origin, disability, disabilities, nondiscrim, college admission, educational access, access to educ	136	contractor, disabilities, discriminat, gender
Education	educat, grade , college , graduate, postsecondary, postsecondary, school, student, tuition, undergraduate, universit, vocational , apprenticeship, internship, curricul, achievement, equal access, ferpa, fafsa, teachers, accreditation, scholarships, pell grant, campus , no child left behind, every student succeeds, race to the top, workforce innocation and opportunities, individuals with disabilities in education, title ix, k12	134	educat, school, student, universit
Agriculture	agricult, cattle , cultivat, grain, wheat, barley, beef, pork, livestock , poultry, food inspect, farm, food import, crop , pesticide, manure, genetically modified, gmo, e coli, mad cow, bovine spongiform encephalopathy, secretary of agriculture, department of agriculture, farmers market	112	agricult, secretary of agriculture, farm, department of agriculture
Law Enforcement	law enforcement, marshals service, bureau of investi, bureau of alcohol, police, protective , inspector general, department of justice, information sharing, personnel training, department of homeland security, bureau of justice assist, institute of justic	107	law enforcement, department of justice, department of homeland security, information sharing
Civil Rights	office of civil, department of justic, equal employ, discrim, hate crim, attorney gener, violation of civil, civil rights	91	attorney gener, discrim, department of justic, hate crim
Covert Operations	central intelligence agency, national security agency, intelligence agen, intelligence serv, covert operations, clandestine, espionage, counterintelligen, directorate of oper, directorate of analysis, covert action, senior analytic serv, defense clandestine, national security act	87	intelligence agen, central intelligence agency, national security agency, clandestine
Defense Research	defense advanced research, darpa, small business innovation, defense innovation, research and develop, research laboratory, information analysis, defense contract, research and technology, department of defense, secretary of defense	85	department of defense, research and develop, information analysis, defense contract
Defense Hardware	defense authorization, ndaa, procurement, miliitary hardware, aircraft, armored vehic, defense acquisi, multiyear procure, block buy	84	procurement, defense authorization, aircraft, ndaa

Dictionary continued on next page

Policy	Terms	Matches	Top 4 Terms (if applicable)
National Parks	forest management, forest service, national park service, national park, historic site, monument, scenic trail, recreation, wilderness area, antiquities act, secretary of interior, secretary of the interior	83	monument, national park, recreation, national park service, antiquities act
Healthcare	affordable care, patient , medicare, medicaid, healthcare, prescription, health insur, chip, chipra, cost sharing, center for medi, cms, centers for medica, part a, part b, part c, part d, deductible, copay, inpatient, outofpocket, insurance portability, state health, chief actuary, secretary of health, health and human	74	secretary of health, medicare, patient , medicaid
Defense Retention	retention, retain, service member, administrative separat, waiver to retain, adjustment in force, enlisted, cyber scholarship, department of defense, secretary of defense, cysp, personnel retention, military compensation, army retention	71	secretary of defense, department of defense, service member, retain
Illegal Drugs	drug, interdiction, narcotics reward, bureau of international narco, drug enforcement, inl , department of state, counter narco, counternarco, rida init, central america regional security init, carsi , drug traffick, drug addic, controlled substan, drug treatment, war on drugs, illegal drug, drug test, drug education, cocaine, heroin, opiod, marijuana, schedule i, schedule 1, cannabis	71	drug, drug traffick, cocaine, heroin
Military Aid	foreign military, peacekeeping, international military ed, imet, pko, arms export, fmf, military aid, security assistanc, department of defense, secretary of defense	69	department of defense, peacekeeping, arms export, imet
United Nations	united nations, peacekeeping, general assembly, security council, helmsbiden, nations security council, un	67	united nations, security council, nations security council, peacekeeping
Gun Control	gun violence, firearm, assault weapons, handgun, national firearms, gunfree, brady hand, bureau of alcohol, atf, commerce in arms, officers safety act, attorney general, background check, firearms license	64	attorney general, firearm, atf, background check
Scientific Research	research grants, nsf , national science foundation, research grants, office of science, national science and technology, research and development, federal research public access, america invents, national laborator, national science board, supercomputing applications, digital library, national nanotechnology, rapid response grant, data scienc	62	office of science, research and development, national science foundation, national nanotechnology
Abortion	abortion, roe , baipa, partialbirth, planned parent, hyde , pregnancy, secretary of health, department of health, mexico city	56	secretary of health, department of health, abortion, roe
Space	national aeronautics and space administration, nasa , satellite, space agenc, space launch, space policy, astronaut	55	national aeronautics and space administration, satellite, space policy, nasa
Community Policing	community polic, law enforcement, cops , community orient, department of justic, policing service, technical assist, collaborative reform, civic imagination	49	law enforcement, department of justic, technical assist, community orient
China Diplomacy	china, chinese, tda, trade and development, tiananmen, strategic economic dial, ambassador	48	china, chinese, tda, trade and development, tiananmen
Arts	arts , art , american heritage, national heritage, entertain , literature, music , olympic, panamerican games, paralympics, sport, theater, movie, film, national endowment for the arts, nea , creative forces, poetry out loud, jazz masters, big read	44	sport, american heritage, arts, national endowment for the arts
Housing	apartment, community development, home construction, home insulation, homeless, housing , mortgage , neighborhood development, real estate, rent control, urban development, urban revitalization, secretary of housing, department of housing and urban development, hud , housing administration, affordable housing, marktomarket, mortgage insurance, multifamily housing, choice neighborhoods, fair housing act, housing assistance, ginnie mae, fannie mae, low income housing, neighborworks , home energy	42	housing, urban development, secretary of housing, mortgage
Taiwan Diplomacy	taiwan, republic of china	41	taiwan,
Immigration	immigration, undocumented, border, border sec, customs enfor, visa, unlawful imm, uscis, ice, deferred action, daca, green card, asylum, citizenship, resident alien, deportation, immgirant, official language, recognized language, everify, everify, children of illega, immigration and natural, ins , ice , immigration quota, h1b, h1b, deport	36	immigration, border, visa, ice
Missile Defense	strategic defense, missile defense, missile, antiballistic, ballistic missile, abm, abmt, sdi	36	missile, ballistic missile, missile defense,
AIDS Research	aids , national institutes of health, centers for disease control, medical research, hiv , hiv aids , sexually transmitted, office of aids research, prevention	35	hiv/aids, hiv, aids, centers for disease control
Fuel Standards	cafe, corporate average fuel, fuel economy, automobile, emmissions, trucks, cars, vehicles, sport utility, secretary of transport, nhtsa, eisa, energy independence and secur, light truck, model years	35	vehicles, secretary of transport, cars, trucks

Dictionary continued on next page

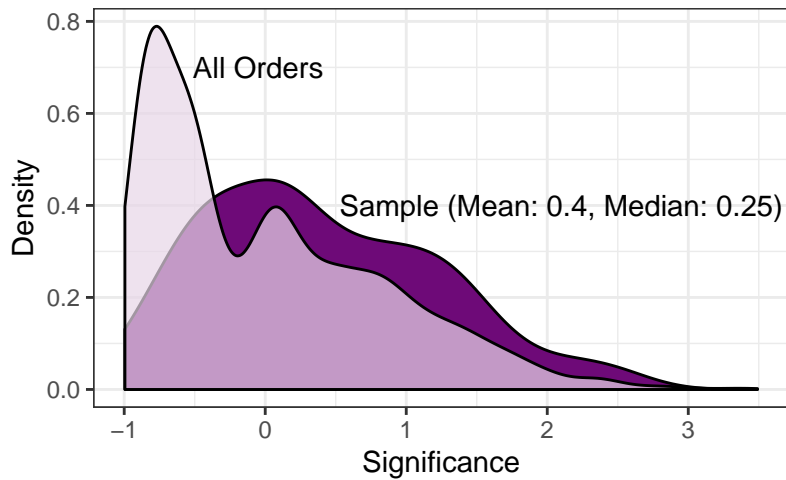
Policy	Terms	Matches	Top 4 Terms (if applicable)
Job Training	job training, department of labor, secretary of labor, trade adjustment assistance, taa, vocational , apprenticeship, certification, unemploy, jobless, jobs , job corps, employment and training, rapid response serv, workforce innovation, vets , hire vets, vets medallion, youthbuild, wioa, innovation and opport	35	jobs, secretary of labor, department of labor, apprenticeship
Active Duty Pay	adjustments of rates, adjustments of certain rates, uniformed services, monthly basic pay	33	uniformed services, adjustments of certain rates, adjustments of rates,
Internet	internet, cyber, internet sales, digital, internet privacy, data protect, network nuetr, identity theft, hacking, data breach, spam	32	cyber, internet, digital, identity theft
Welfare	child welfare, employment insurance, food bank, food stamp, impoverish, lowincome, old age security, pension, poverty, public assistance, public welfare, shelter , unemployment benefits, unemployment insurance, welfare , food assistance, snap , guarenteed income, tanf , temporary assistance for needy families, supplemental nutrition	29	welfare, low-income, pension, poverty
Minimum Wage	minimum wage, living wage, federal minimum wage, fair labor standards, department of labor, secretary of labor, wage for contract	25	secretary of labor, department of labor, minimum wage, fair labor standards
Earned Income Credit	earned income, eic, 1040, internal revenue service, eic , income limits, tax reform act, tax relief, internal revenue code	24	internal revenue service, eic, earned income, 1040
Unemployment	unemployment, benefits, unemploy, unemployment insur, reemployment	24	benefits, unemploy, unemployment, unemployment insur
Alcohol Taxes	distilled spirits, wines, beer, gallonage, excise tax, taxation , internal revenue service	22	taxation, distilled spirits, wines
Cigarette Taxes	smoking , cigarette, excise tax, taxation , internal revenue service, internal revenue service	21	smoking, internal revenue service, taxation , cigarette
Student Loans	department of education, secretary of education, student loans, financial aid, federal student aid, fafsa, free application for federal, repayment, consolidation, subsidized loan, unsubsidized loan, teach grant, consolidation, loan servicers, borrower, deferment, federal family education loan, ffe plus, financial need	19	secretary of education, borrower, department of education, repayment
Marijuana	controlled substanc, marijuana, cannabis, schedule i, schedule 1, national drug control, drug enforcement, medical marij	15	national drug control, controlled substanc, marijuana, drug enforcement
Gas Tax	fuel tax, gasoline tax, internal revenue service, strategic petro, spr	14	internal revenue service, strategic petro, fuel tax
Prisons	prison, inmate , vocational , sentencing, guidelines for sen, sentencing guid, felon, nonviolent, nonviolent, parole, jobplacement assist, addiction treat, alcohol addict, drug addiction treat, incarcer, bureau of prison, recidivism, correctional, inmate program	14	prison, parole, incarcer, correctional, recidivism
Defense Conversion	defense conversion, economic conversion, defense plant, dpc, demobilization, 1033, leso, defense logistics, excess federal property	13	leso, demobilization, defense logistics, dpc
LGBT Rights	gay , lesbian , transgender, bisexual, homosexual, sexual orientation, samesex, samesex, defense of marriage, doma, hate crime, gender identity	12	hate crime, same-sex, sexual orientation, transgender
Medical Research	national institutes of health, centers for disease control, nih , cdc , medical research, cancer, alzheimer, obesity, stem cell, embryonic , human embryo, human stem, clinical, diseases, research grants	12	clinical, stem cell, cancer, diseases
Foreign Aid	foreign aid, mexico city, global gag, funding abortions, international aid, interational disaster assitance, global aid , global hunger, international red cross, doctors without borders, humanitarian aid, amnesty international, usaid , agency for international development	9	usaid , mexico city, foreign aid
Armed Forces Personnel Training	military training, personnel training, military academ, combat readiness, training death, national defense auth,, army education, war college, defense language, army education, basic combat training, advanced individual train	7	military training, combat readiness, personnel training
Income Taxes	income tax, internal revenue service	6	income tax,
Capital Gains Tax	capital gains, taxation , internal revenue service	5	taxation, capital gains
Corporate Taxation	corporate tax, corporations, taxation, tax rate, business tax, internal revenue service, large business and international, tax code	3	tax rate, corporations, internal revenue service, taxation
Mortgage Deduction	mortgage interest, internal revenue service, firsttime home, homebuyer, homeowner	2	internal revenue service, mortgage interest, first-time home
Charity Deductions	internal revenue service, charity, charitable, nonprofit donat, charitable contributions, qualified organization, tax exempt status, 170c, deductibility status, private operating foundations, private foundations, 501c3	1	internal revenue service, charity, charitable
Child Credit	internal revenue service, child tax, qualifying child	1	internal revenue service, child tax

Dictionary continued on next page

Policy	Terms	Matches	Top 4 Terms (if applicable)
Estate Tax	estate tax, deceased, internal revenue service, death tax, gross estate, taxable estate	1	internal revenue service, estate tax, deceased
Medical Deduction	medical deduc, dental deduct, internal revenue service, itemized deduc	1	internal revenue service, medical deduc, dental deduct
Cuba Diplomacy	cuba	0	-
Defense Space	military shutt, defense space, defense shutt, defense satell	0	-

**Table B5 – Dictionary.** For each policy area, keywords consist of: the departments, agencies, and officials responsible for carrying out the policy, major governing statutes, and common terms used in each policy area. This table reports the number of GPO documents with keyword matches, as well as the terms most frequently used in these documents. These were then hand-coded as {unilateral action, not unilateral action} by 1-3 raters.

Figure B2 reports the distribution of all executive orders rated by Chiou and Rothenberg (2014), which can be found at <https://doi.org/10.7910/DVN/26652>. These scores were matched by unique executive order number to the sample of executive orders included in this study. By construction, Chiou and Rothenberg (2014) scores have a mean of 0. They iteratively remove executive orders from the dependent variable based upon thresholds of significance. After a significance threshold of 1, the theories begin performing more poorly. Given the sample mean of 0.4, therefore, I have no reason to believe that the significance of the executive actions in this study explain the findings.



**Figure B2 – Executive Orders rated by Chiou and Rothenberg (2017) are moderately more significant, relative to the typical order.** Plots the density of executive order significance in the actions included for analysis and the population of orders from Chiou and Rothenberg (2017).



Policy	GPO	FAS	Law	CQ	EO	Memo	Proclamation	Enforcement	Rulemaking	Other
Abortion	6	0	0	0	1	5	0	0	0	0
Active Duty Pay	12	0	0	0	12	0	0	0	0	0
Affirmative Action	3	0	0	0	1	2	0	0	0	0
Agriculture	11	0	0	0	0	10	0	0	0	1
AIDS Research	9	0	0	0	5	4	0	0	0	0
Alcohol Taxes	1	0	0	0	0	0	1	0	0	0
Arts	1	0	0	0	0	1	0	0	0	0
China Diplomacy	12	0	0	0	1	7	2	0	0	2
Cigarette Taxes	4	0	1	0	1	2	0	0	1	1
Civil Rights	19	0	2	0	7	12	0	2	0	0
Corporate Taxation	1	0	3	0	1	0	0	0	2	1
Covert Operations	22	4	0	0	14	6	0	0	0	6
Cuba Diplomacy	5	0	10	0	0	1	3	10	0	1
Defense	113	15	10	0	50	52	2	1	0	33
Defense Hardware	16	0	0	0	4	1	0	0	0	11
Defense Research	2	2	0	0	1	1	0	0	0	2
Defense Space	0	7	0	0	0	0	0	0	0	7
Earned Income Credit	2	0	0	0	0	2	0	0	0	0
Education	44	0	1	2	23	21	0	0	0	3
Emergency Management	29	0	0	0	11	11	1	0	0	6
Energy	75	0	0	0	21	50	0	0	0	4
Environment	82	4	9	0	49	33	0	0	5	8
Estate Tax	1	0	0	0	1	0	0	0	0	0
Firearm Regulation	11	0	1	0	0	11	0	0	1	0
Foreign Aid	4	4	0	0	2	2	0	0	0	4
Fuel Standards	3	0	0	0	1	2	0	0	0	0
Healthcare	26	0	9	0	9	16	0	3	3	4
Homeland Security	87	24	7	0	48	18	0	7	0	45
Housing	19	0	0	0	10	9	0	0	0	0
Illegal Drugs	42	0	0	0	3	25	0	0	0	14
Immigration	10	0	11	0	1	6	1	8	0	5
Income Taxes	0	0	1	0	0	0	0	0	1	0
Internet	18	3	1	0	7	9	0	0	1	5
Job Training	5	0	0	0	2	3	0	0	0	0
Law Enforcement	24	1	1	0	10	12	0	1	0	3
LGBT Rights	6	0	8	0	1	5	0	1	3	4
Marijuana	0	0	1	0	0	0	0	0	0	1
Medical Research	6	0	1	0	2	4	0	1	0	0
Military Aid	12	12	0	0	1	7	0	0	0	16
Minimum Wage	2	0	1	1	1	1	0	0	1	1
Missile Defense	2	8	0	0	1	1	0	0	0	8
National Parks	72	0	0	0	7	9	56	0	0	0
Prisons	4	0	0	0	0	4	0	0	0	0
Regulatory Affairs	20	0	0	0	9	11	0	0	0	0
Scientific Research	10	1	0	0	4	6	0	0	0	1
Space	2	0	0	0	0	2	0	0	0	0
Student Loans	3	0	0	0	0	3	0	0	0	0
Taiwan Diplomacy	3	0	0	0	1	2	0	0	0	0
Trade	230	1	3	0	22	38	167	0	0	7
Transportation	38	0	0	0	17	17	0	0	0	4
Unemployment	2	0	0	0	1	1	0	0	0	0
United Nations	10	2	1	0	0	7	2	1	0	3
Welfare	3	0	1	2	0	3	0	0	1	2

**Table B6 – Limiting measures of executive action to one source or directive type omits relevant data.** ‘GPO’ indicates the action was sourced to the compilation of presidential documents; ‘FAS’ indicates the action was sourced to national security directives published by the Federation of American Scientists; ‘Law’ indicates the source was from a law review; ‘CQ’ indicates the source was the Congressional Quarterly Almanac; ‘EO’ indicates executive order; ‘Memo’ indicates presidential memorandum; ‘Enforcement’ indicates the action was a presidentially announced change in enforcement policy of existing law. Table excludes policy areas for which no actions were found.

## Additional Results

Theory	$\beta$	SE	RSE	R <sup>2</sup>	<i>r</i>	N	Model	DV
Unilateralism	-0.04	0.08	0.48	0.03		350	OLS w/CRSE	All Actions
Chamber Compliance	0.01	0.08	0.48	0.03		350	OLS w/CRSE	All Actions
Partisan Compliance	-0.03	0.08	0.48	0.03		350	OLS w/CRSE	All Actions
Unilateralism	-0.09	0.06	1.00	0.06		342	WLS	All Actions
Chamber Compliance	0.04	0.06	1.00	0.05		342	WLS	All Actions
Partisan Compliance	-0.07	0.07	1.00	0.05		342	WLS	All Actions
Unilateralism	-0.01	0.05		0.00	0.02	350	2WFE	All Actions
Chamber Compliance	-0.01	0.05		0.00	0.02	350	2WFE	All Actions
Partisan Compliance	0.06	0.06		0.00	0.02	350	2WFE	All Actions
Unilateralism	-0.07	0.07	0.43	0.04		350	OLS w/CRSE	Executive Orders
Chamber Compliance	-0.05	0.08	0.43	0.03		350	OLS w/CRSE	Executive Orders
Partisan Compliance	-0.16	0.08	0.42	0.05		350	OLS w/CRSE	Executive Orders
Unilateralism	-0.10	0.05	0.87	0.07		342	WLS	Executive Orders
Chamber Compliance	-0.00	0.05	0.87	0.06		342	WLS	Executive Orders
Partisan Compliance	-0.15	0.06	0.87	0.07		342	WLS	Executive Orders
Unilateralism	-0.09	0.04		0.02	-0.03	350	2WFE	Executive Orders
Chamber Compliance	-0.11	0.04		0.02	-0.03	350	2WFE	Executive Orders
Partisan Compliance	-0.08	0.05		0.01	-0.03	350	2WFE	Executive Orders

**Table C7 – Estimation Results plotted in Figure 5.** Dependent variables are dichotomous indicators for unilateral action, while key independent variables are dichotomous indicators for whether the status quo lies in the action regions from Figure effig:models. All models include Congress fixed effects. OLS w/CRSE indicates least squares estimates with standard errors clustered by policy area; WLS indicates least squares with observations weighted by the inverse bootstrapped standard error of the status quo estimate; 2WFE includes policy area fixed effects.

Theory	$\beta$	SE	AIC	N	Model	DV
Unilateralism	-0.35	0.39	1034.27	350	NB w/CRSE	All Actions
Chamber Compliance	-0.04	0.38	1035.68	350	NB w/CRSE	All Actions
Partisan Compliance	-0.32	0.36	1035.10	350	NB w/CRSE	All Actions
Unilateralism	-0.72	0.12	4186.36	342	WNB	All Actions
Chamber Compliance	-0.09	0.13	4215.65	342	WNB	All Actions
Partisan Compliance	-0.61	0.16	4205.28	342	WNB	All Actions
Unilateralism	-0.23	0.16	721.74	350	2WFE	All Actions
Chamber Compliance	-0.08	0.16	723.70	350	2WFE	All Actions
Partisan Compliance	0.15	0.20	723.43	350	2WFE	All Actions
Unilateralism	-0.48	0.53	686.59	350	NB w/CRSE	Executive Orders
Chamber Compliance	-0.19	0.55	688.20	350	NB w/CRSE	Executive Orders
Partisan Compliance	-0.92	0.60	685.01	350	NB w/CRSE	Executive Orders
Unilateralism	-0.71	0.14	2673.86	342	WNB	Executive Orders
Chamber Compliance	-0.08	0.14	2694.51	342	WNB	Executive Orders
Partisan Compliance	-0.92	0.20	2674.25	342	WNB	Executive Orders
Unilateralism	-0.52	0.22	465.33	350	2WFE	Executive Orders
Chamber Compliance	-0.44	0.22	466.86	350	2WFE	Executive Orders
Partisan Compliance	-0.58	0.34	467.64	350	2WFE	Executive Orders

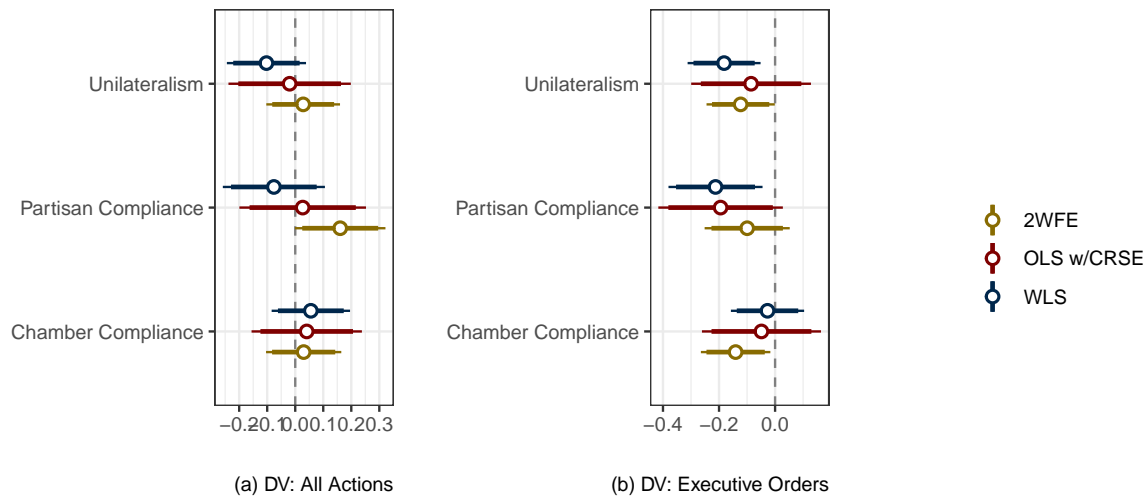
**Table C8 – Results with the Dependent Variable as a count do not substantively differ from those in Figure 5.** ‘NB w/CRSE’ indicates negative binomial regression with standard errors clustered by topic and Congress fixed effects. ‘WNB’ weights by the bootstrapped standard error of the status quo. ‘2WFE’ also includes topic fixed effects.

Theory	$\beta$	SE	RSE	$R^2$	$r$	$N$	Model	DV
Unilateralism	-0.05	0.08	0.48	0.03		350	OLS w/CRSE	All Actions
Chamber Compliance	0.05	0.08	0.48	0.03		350	OLS w/CRSE	All Actions
Partisan Compliance	0.04	0.08	0.48	0.03		350	OLS w/CRSE	All Actions
Unilateralism	-0.08	0.05	1.08	0.06		342	WLS	All Actions
Chamber Compliance	0.08	0.05	1.08	0.06		342	WLS	All Actions
Partisan Compliance	0.04	0.07	1.08	0.05		342	WLS	All Actions
Unilateralism	-0.01	0.05		0.00	0.02	350	2WFE	All Actions
Chamber Compliance	0.04	0.05		0.00	0.02	350	2WFE	All Actions
Partisan Compliance	0.07	0.05		0.01	0.03	350	2WFE	All Actions
Unilateralism	-0.06	0.07	0.43	0.03		350	OLS w/CRSE	Executive Orders
Chamber Compliance	0.00	0.07	0.43	0.03		350	OLS w/CRSE	Executive Orders
Partisan Compliance	-0.11	0.07	0.43	0.04		350	OLS w/CRSE	Executive Orders
Unilateralism	-0.08	0.05	0.94	0.07		342	WLS	Executive Orders
Chamber Compliance	0.04	0.05	0.94	0.06		342	WLS	Executive Orders
Partisan Compliance	-0.09	0.06	0.94	0.07		342	WLS	Executive Orders
Unilateralism	-0.06	0.04		0.01	-0.03	350	2WFE	Executive Orders
Chamber Compliance	-0.05	0.04		0.01	-0.03	350	2WFE	Executive Orders
Partisan Compliance	-0.07	0.05		0.01	-0.04	350	2WFE	Executive Orders

**Table C9 – Reproducing Results from Table C7 with Alternative Status Quos.** Reports estimation results with the underlying status quo measures estimated using ordinal probits with observations weighted by the natural log of the number of givers used to assign their CFscore.

Theory	$\beta$	SE	RSE	$R^2$	$r$	$N$	Model	DV
Unilateralism	-0.05	0.10	0.48	0.03		345	OLS w/CRSE	All Actions
Chamber Compliance	0.01	0.11	0.48	0.03		345	OLS w/CRSE	All Actions
Partisan Compliance	-0.05	0.11	0.48	0.03		345	OLS w/CRSE	All Actions
Unilateralism	-0.10	0.06	1.00	0.06		342	WLS	All Actions
Chamber Compliance	0.04	0.07	1.00	0.05		342	WLS	All Actions
Partisan Compliance	-0.08	0.08	1.00	0.05		342	WLS	All Actions
Unilateralism	0.02	0.06		0.00	0.01	345	2WFE	All Actions
Chamber Compliance	0.05	0.06		0.00	0.02	345	2WFE	All Actions
Partisan Compliance	0.07	0.07		0.00	0.02	345	2WFE	All Actions
Unilateralism	-0.09	0.09	0.42	0.04		345	OLS w/CRSE	Executive Orders
Chamber Compliance	-0.08	0.11	0.42	0.04		345	OLS w/CRSE	Executive Orders
Partisan Compliance	-0.19	0.10	0.42	0.05		345	OLS w/CRSE	Executive Orders
Unilateralism	-0.12	0.06	0.87	0.07		342	WLS	Executive Orders
Chamber Compliance	-0.03	0.06	0.87	0.06		342	WLS	Executive Orders
Partisan Compliance	-0.18	0.07	0.87	0.07		342	WLS	Executive Orders
Unilateralism	-0.09	0.05		0.01	-0.01	345	2WFE	Executive Orders
Chamber Compliance	-0.10	0.05		0.01	-0.01	345	2WFE	Executive Orders
Partisan Compliance	-0.08	0.06		0.01	-0.01	345	2WFE	Executive Orders

**Table C10 – Estimation Results with Continuous Measures of Theoretical Predictors.** Each independent variable is the proportion of a status quo policy bootstrapped, 95% credible interval that overlaps with the relevant action region. All other features of these models are the same as those in Table C7.



**Figure C3 – Unilateral action theories poorly predict executive actions in policy areas presidents have statutory discretion over.** Plots the predicted change in the probability of action from separate least squares models. Tests UAT theories on the subset of policies that president have some discretion to change. Excludes all income and excise taxes, as well as tax credits and deductions. All other features of these models reproduce those in Table 5.

Theory	$\beta$	SE	RSE	$R^2$	$r$	$N$	Model	DV
Unilateralism	-0.02	0.11	0.50	0.04		231	OLS w/CRSE	All Actions
Chamber Compliance	0.04	0.10	0.50	0.04		231	OLS w/CRSE	All Actions
Partisan Compliance	0.03	0.12	0.50	0.04		231	OLS w/CRSE	All Actions
Unilateralism	-0.10	0.07	1.01	0.06		228	WLS	All Actions
Chamber Compliance	0.06	0.07	1.01	0.05		228	WLS	All Actions
Partisan Compliance	-0.08	0.09	1.01	0.05		228	WLS	All Actions
Unilateralism	0.03	0.07		0.00	0.06	231	2WFE	All Actions
Chamber Compliance	0.03	0.07		0.00	0.06	231	2WFE	All Actions
Partisan Compliance	0.16	0.08		0.02	0.06	231	2WFE	All Actions
Unilateralism	-0.09	0.11	0.48	0.05		231	OLS w/CRSE	Executive Orders
Chamber Compliance	-0.05	0.11	0.48	0.05		231	OLS w/CRSE	Executive Orders
Partisan Compliance	-0.19	0.11	0.48	0.06		231	OLS w/CRSE	Executive Orders
Unilateralism	-0.18	0.07	0.93	0.12		228	WLS	Executive Orders
Chamber Compliance	-0.03	0.07	0.94	0.09		228	WLS	Executive Orders
Partisan Compliance	-0.21	0.09	0.93	0.11		228	WLS	Executive Orders
Unilateralism	-0.12	0.06		0.02	0.01	231	2WFE	Executive Orders
Chamber Compliance	-0.14	0.06		0.03	0.01	231	2WFE	Executive Orders
Partisan Compliance	-0.10	0.08		0.01	0.01	231	2WFE	Executive Orders

**Table C11 – Estimation Results excluding Polices with Little or No Presidential Discretion.** Tests UAT theories on the subset of policies that president have some discretion to change. Excludes all income and excise taxes, as well as tax credits and deductions. All other features of these models reproduce those in Table C7.