Lawyering Up the Administrative State*

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Abstract

Lawyers are powerbrokers in American society, wielding outsized influence in courtrooms, boardrooms, and in the halls of Congress. Yet, in the administrative state, where attorneys constitute a growing share of the workforce, their influence has gone largely unexamined. In this paper, I evaluate the role of lawyers in the administrative state. Building on research from management science and using a new dataset of the legal composition of federal agencies, I evaluate how an increased presence of lawyers affects agency compliance behavior and rulemaking output. The findings partially parallel research on lawyers in corporations: agencies with more lawyers are more likely to comply with even obscure procedural requirements. However, lawyers' influence on risk-taking when promulgating new regulations surfaces only with respect to litigation, not with rule length. Overall, these results suggest that the growing reliance on lawyers may foster proceduralism within agencies and that the professional composition of agencies is a key element of administrative design.

Keywords: bureaucracy, lawyers, compliance, rulemaking, government performance

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"Government by lawyer," journalist Charlie Savage (2015, 63) wrote of the Obama administration, "methodical and precise—sometimes to a fault." Savage was describing national security policy, where the administration's newly reinvigorated interagency lawyers' group gave attorneys "the first shot at many decisions," set "the framework within which a decision could be made," and "disciplined deliberations" (65). Savage's observation was about homeland security, but the underlying point speaks to broader trends in the administrative state. Today, lawyers regularly hold positions of authority across the federal bureaucracy, leading one observer to recently declare that the US "has a government of the lawyers, by the lawyers, and for the lawyers" (Wang, 2025, 4). This paper moves beyond the Situation Room, exploring the influence of lawyers in the regulatory and administrative offices where the day-to-day work of governance actually happens.

Discussions about who works in the federal government typically center on the balance achieved between merit-based career civil servants and politically-selected appointees. However, this question is much bigger than the method of selection; a broad literature shows that individuals' occupational and educational backgrounds can affect how they do their work. Those steeped in economics broadly favor efficiency perspectives over other public values (Berman, 2022; Short, Hill and Brown, 2025). Doctors in Congress sponsor more health-focused bills and are more likely to get them passed (Fountaine, Shepherd and Skinner, 2025), while legislators from working class backgrounds adopt more egalitarian perspectives compared to their more privileged peers (Carnes, 2013). Judges who are former public defenders assign less prison time and give lighter sentences compared to those who have not served as public defenders (Harris and Sen, 2026). And lawyers in top corporate positions focus more on compliance and adopt more risk-averse outlooks than those without legal training (e.g., Black et al., 2022; Henderson et al., 2025; Krishnan, Wen and Zhao, 2011).

In the US, lawyers constitute the "ruling political class" (Bonica and Sen, 2021, 31), a status they have held since at least the time that de Tocqueville toured the country in

the early 19^{th} century.[1] Even though they make up less than one percent of the non-agricultural workforce, lawyers occupy a striking number of leadership roles, including positions such as governors, state lawmakers, members of Congress, judges, university presidents, managing partners of law firms, and leaders of corporate, governmental, and nonprofit institutions (Rhode, 2013). Of the 45 men who have served as president, more than half (26) have been lawyers.

Within the federal government, lawyers constitute an important share of the federal workforce. Between 1789 and 2016, 63% of Cabinet members were lawyers (Robinson, 2017). And, more broadly, the proportion of lawyers in the federal government's workforce more than doubled between 1973 and 2023. What are the consequences of the legal profession's preeminence within the federal government? I explore this question in two different domains: compliance and policymaking. With respect to compliance, I ask whether agencies that that have higher proportions of staff lawyers adhere more closely to legal and procedural requirements, since lawyers are trained to focus on law and procedure. With respect to policymaking, I ask whether an increased lawyer presence in an agency is associated with a more cautious approach to policymaking, since lawyers are trained to move with care and deliberation.

To empirically evaluate these expectations, I pair data on lawyers' presence in agencies with data on agency procedural outcomes and agency rulemaking data. To preview, the results show a distinct lawyer premium with respect to procedures; greater attorney representation in an agency's workforce is associated with greater compliance with procedural requirements. These results are not replicated with other white collar occupations in agency workforces, suggesting that this is a lawyer-specific effect. Turning to agency rulemaking, the evidence suggests that agencies with greater proportions of attorneys are *not* more likely to approach rulemaking more cautiously. However, I complicate these findings by showing that lawyers do have an effect when it comes to litigation and the fate

[1]De Tocqueville remarked that lawyers "formed the highest political class and the most cultivated circle of society" (as quoted in Rhode, 2013, 7)

of rules over the longer term.

This work makes at least three important contributions. First, by examining the effects of lawyers in government I show how the professional composition of the administrative state is important to government outcomes and worth considering carefully in its own right. Second, I compile a novel set of indicators of agency procedural compliance, demonstrating how the vast array of reports that government agencies produce each year can serve as useful information for social scientists studying the bureaucracy. Finally, the findings speak to an ongoing conversation about the institutional design of government. A growing cadre of scholars and political observers are calling attention to state capacity deficits and to how procedures can inhibit government performance (e.g., Bagley, 2019; Pahlka, 2023; Teles, 2025; Klein and Thompson, 2025). By focusing on how lawyers intersect with procedures and policymaking, I highlight one mechanism by which the "procedure fetish" (Bagley, 2019) is propagated within agencies.

What do Lawyers Do?

Lawyers have a "cast of mind" (Luban, 1988) that is distinctive from other professionals. Legal training imparts a unique way of understanding and engaging with the world.[2] All lawyers must take a test (the LSAT) to get into law school and another test (a state bar examination) to practice law; these tests emphasize specific skills (analytical precision, logical thinking, and persuasive writing) over other skills. For example, there is no mathematical or statistical section on either test, nor are test takers rewarded for their problem-solving abilities or creativity. The legal mindset and the value of these skills is reinforced in the law classroom. The culture of law school may also discourage risk-taking and innovation, since the "culture of competition and conformity becomes an invisible but ubiquitous gravitational force affecting how students perceive the law and their place

[2]Rosen, Parker and Nielsen (2012, 305) note that "[d]espite the sociological reality that lawyers on Wall Street, on Main Street, and on Tally's Corner have little in common except a professional degree, the conception of thinking like a lawyer creates a common bond between them."

in it" (Sturm and Guinier, 2007, 520). Finally, even though the legal curriculum is not standardized across law schools, school tend to require a common set of core classes (e.g., torts, civil procedure, constitutional law, contracts), a feature which further unifies the profession.

A lawyer's professional identity can follow them throughout their career. The professional network acquired in law school can pay valuable dividends over the course of a career. For example, lawyers who run for Congress are better at raising campaign funds than their non-lawyer peers, largely due to being able to raise funds from their law school alumni networks (Bonica, 2020). The law school professional network may also grant special access to those in positions of power, because service as a professional politician is often part and parcel of a legal career rather than a departure from it, unlike in many other professions such as medicine (Robinson, 2017; Weber, 1958). Continuing education requirements ensure career-long fealty to the profession and ongoing socialization into the lawyer network.

According to the American Bar Association (2024), from 1973 to 2023 the number of lawyers in the US increased by a factor of 3.6. However, as demonstrated in the top panel of Figure 1, the rate of attorney growth in the federal workforce far outpaces that of the American workforce. Today, attorneys in the federal government constitute approximately 2.5% of the federal workforce,[3] a share that has grown over time. Legal professionals in the federal bureaucracy perform many different functions including reviewing documents and contracts, helping draft proposed and final rules, providing advice on enforcement proceedings, and assisting with the agency's litigation.

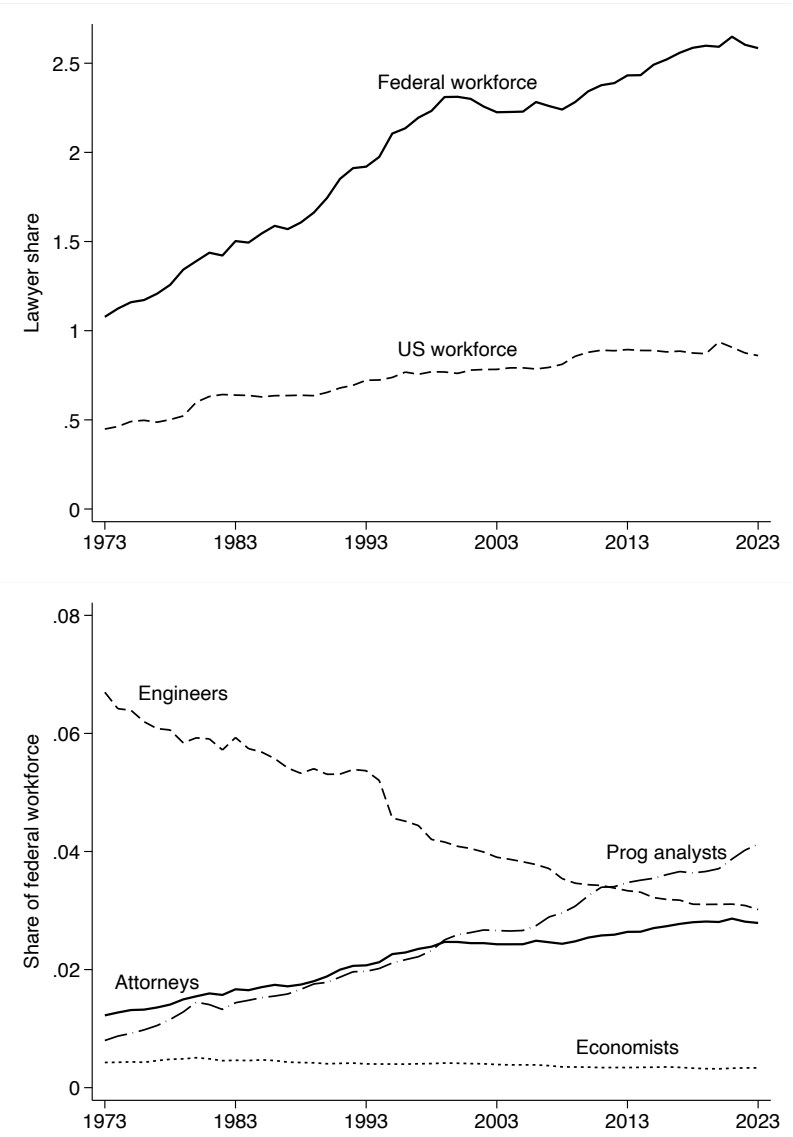
It is neither obvious nor preordained that the government *should* have a large share of lawyers. The federal bureaucracy has its fingers in every sector of American life, ranging from forest management to the delivery of Social Security benefits and the creation of

[3]Another 5.5% of the workforce holding legally-adjacent occupations (i.e., law clerks, paralegals, legal assistants, and similar positions.

economic analyses to the regulation of nuclear technology, medical devices, and drinking water. The sheer diversity of tasks suggests a need for a wide variety of expertise (i.e., not just legal expertise), and that no one profession need necessarily dominate others.[4] The bottom panel of Figure 1 shows that within the federal workforce, lawyers are not the most common, nor the fastest-growing among comparable white-collar occupations. While there is a greater share of attorneys than economists, positions for program analysts are more numerous and have increased at a faster pace. And, while engineers' share of the workforce has been steadily declining over time, the share of engineers remains greater than the share of attorneys in federal employment.

[4]The Office of Personnel Management's (OPM's) occupational handbook reflects this diversity, listing a vast array of occupations for federal bureaucrats, including food preparation and serving specialist, economist, irrigation system operator, patent examiner, estate tax attorney, budget analyst, forestry technician, and technical writer, among hundreds of others.

Figure 1: Lawyers in the federal workforce, compared to the U.S. workforce and other occupations



Note: Top panel shows the proportion of attorney positions in the federal workforce, compared to the broader US workforce for the period 1973-2023. Government occupational data is from the Office of Personnel Management. Attorney data is from the American Bar Association (ABA). US workforce data shows employed, non-agricultural workers as reported by the Bureau of Labor Statistics. Bottom panel shows comparable occupations in the federal workforce using OPM's data; see section A of the Appendix. Denominator includes white-collar workers only.

Nevertheless, I argue that the professional and social esteem of lawyers, both in American society and within the federal workforce, has significant consequences. The

secular growth of lawyers in the US workforce has ripple effects that affect the federal government. For example, the expansion of standing and judicial review of agency work, as well as the increasing supply of lawyers in the American polity, has exposed agencies to greater litigation risk. Agencies have responded in kind, hiring more "judicialized" personnel, specifically Administrative Law Judges and Administrative Judges. (Limbocker, Resh and Selin, 2022). And as rulemaking has taken on a more central policymaking role in recent decades, regulated firms have responded to the litigation environment. It is now common practice for corporate firms (in the financial arena in particular) to retain white-shoe law firms to represent their interests before agencies (Libgober and Carpenter, 2024).

Lawyers' Influence in the Federal Bureaucracy

Questions about how "thinking like a lawyer" influences agency behavior are not new. Writing in 1989, renowned bureaucracy scholar James Q. Wilson argued that the professional background of a bureaucrat crucially informs the actions they take. He posited that when professionals have incentives and values from outside the agency—like the values instilled in law school and reinforced by the ABA—"the way such a person defines his or her task may reflect more the standards of the external reference group [i.e., the legal profession] than the preferences of internal management" (60).[5] He concludes that, compared to other professionals (like engineers) lawyers are more apt to behave as professionals, acting as lawyers first, and agency bureaucrats second (61).

What does this lawyerly perspective mean in terms of the tasks agencies perform? A rich literature in management science helps inform this question, examining how the increasing presence of lawyers in the corporate world affects firm output and performance. Focusing on the role of lawyers in the leadership (CEO) level and the management (C-

[5]Importantly, Wilson notes that the incentives to perform in accordance with professional norms do not reduce to simplistic notions that government lawyers are always seeking employment in the private sector or that they necessarily favor industry over public interests; see pp. 86-87.

suite and board) level, this research highlights two distinct characteristics that lawyers in particular bring to an organization: a focus on compliance and an effort to minimize risk-taking.

Lawyers' attention to compliance stems from the legal profession's emphasis on adhering to the rule of law (Robinson, 2017). Indeed one handbook for aspiring lawyers admonishes that "It will only be the deployment of the virtue of *fidelity to the law* by lawyers like you that the rule of law will be preserved" (Longan, Floyd and Floyd, 2019, 124, emphasis my own). In the firm context, this orientation translates into observable differences in outcomes. CEOs with legal training have demonstrated greater compliance with the law, in part because they are more attuned to whether corporate policies may violate legal standards and they are sensitive to the legal and financial costs of violations. Beyond the CEO level, an increased presence of lawyers in firms is similarly associated with increased compliance. An increase in lawyers on corporate boards of directors yields higher financial reporting quality (Krishnan, Wen and Zhao, 2011), and hiring lawyers as executives is associated with a 50 percent reduction in compliance breaches and a 32 percent reduction in monitoring breaches (Morse, Wang and Wu, 2016). Even when lawyers do not systematically improve compliance outcomes, they shape compliance processes through manuals, training programs, and heightened attention to legal risk (Rosen, Parker and Nielsen, 2012).

While firms must heed compliance requirements imposed by government regulations, agencies do not have these same strictures. Compliance looks different for bureaucratic agencies. As political scientists have well documented, Congress and the president (but mostly Congress) have imposed a constellation of administrative procedures designed to increase the political control that these overseers have over agencies (see, e.g., McCubbins, Noll and Weingast, 1987, 1989). The logic of administrative procedures in this context is that they can push agencies to make decisions more aligned with the principal's preferences. Administrative procedures run the gamut from processes like ex ante regulatory

review by the Office of Information and Regulatory Affairs (OIRA) to mandatory environmental impact statements and cost-benefit analysis requirements before certain agency actions are undertaken. Annual written compliance reports are another frequent administrative procedure, so much so that there is a surfeit of required reports on even obscure compliance laws.[6] Over time, the accretion of procedures may ossify policymaking and may consume—or even overwhelm—agency capacity. When agencies lack the resources to comply with every procedural requirement, some obligations inevitably go unmet.

I argue that, compared to other professionals within an agency, lawyers are more likely to approach administrative procedures with a compliance orientation. That is, where other professionals may view compliance requirements as a box to check or a nice-to-have, lawyers' training, which emphasizes compliance with the rule of law as paramount, makes procedural compliance a value in itself rather than a hurdle to surmount. This straightforwardly leads to the first hypothesis:

> **H1.** *An increased presence of lawyers in an agency is associated fewer procedural violations (i.e., greater compliance).*

In addition to their compliance orientation, lawyers also bring a distinctive attitude toward risk that may infiltrate agency policymaking. Lawyers are sharply attuned to risk and trained to minimize it.[7] In the corporate world, lawyers' embrace of risk aversion can have meaningful impacts on firm outcomes. The management literature on lawyers in firm leadership roles suggests that, compared to non lawyers, lawyer-leaders are better at managing the information environment. This means that they tend to avoid "bad news hoarding" (Huang and Ho, 2023; Al Mamun et al., 2021), that they disclose potential litigation losses earlier (Chen et al., 2024), and that they include more negative words

[6]For example, for many years Congress famously required the Customs and Border Protection agency to submit a superfluous annual report on "Dog and Cat Fur Protection," which detailed the government's adherence to bans on importing and exporting dog and cat fur products into the US.

[7]One observer bemoans how the legal profession's "growing embrace of risk management in [its] regulatory norms and narratives" has displaced ethical training for lawyers (Alfieri, 2005, 1910).

in their corporate press releases (Al Mamun et al., 2021). They are also less likely to voluntarily disclose environmental information (Lewis, Walls and Dowell, 2014). Beyond information risks, lawyer-leaders also pay heed to legal risks, resulting in a reduced likelihood of litigation (Dai, Tong and Jia, 2024; Henderson et al., 2025) and less severe litigation (Henderson et al., 2025).

Translating these insights to the bureaucracy is not straightforward, as, unlike firms, bureaucratic organizations are not organized around a core maximizing principle against which risk reduction can be benchmarked. Nevertheless, lawyers' emphasis on risk reduction may influence policy production processes within agencies. Rulemaking in particular is an area where lawyers may have considerable influence. Rulemaking is lawmaking, as agencies issue rules that, once finalized, carry the full force and effect of law. Rules are also subject to political oversight, by stakeholder groups, Congress, the president, OIRA, and the courts. Prior work suggests that agencies are well attuned to this political risk and work to insulate their rules from political overturn (Nou, 2012; Potter, 2019). While most rules are not challenged in court,[8] the threat of litigation nevertheless looms large.

Because rules involve the creation of new law, lawyers are often heavily involved in their creation. Sometimes lawyers may be on the rulewriting team working on a particular agency program. Lawyers may also review a draft rule from their perch in the agency's Office of General Counsel. And because rules carry the threat of political and legal risk, lawyers' proclivity towards risk avoidance can influence both the process by which rules are produced and the actual rules themselves.

A risk averse approach to rulemaking might mean that lawyers ensure that all the *i's* are dotted and *t's* are crossed in a rule. Lawyers also might take steps to "bulletproof" a rule, adopting a defensive posture to insulate the rule from judicial overturn. For instance,

[8]Dimenstein, Goodson and Szeto (2025, 22) find that of 1,872 major rules issued between 1996 and 2025, only 398 (21%) were challenged in court.

some agency preambles run into the thousands of pages. Scholars tie the rise of the prolix regulatory preamble to a defensive judicial posture: "A rule whose preamble is too *short* risks being struck down by the courts and sent back to the agency for a rewrite; but no case has ever been reported where a court has thrown out a preamble for being too *long*" (Webley, 2018, 7, emphasis in original). Detailed explanations function as a costly signal to reviewing courts that the agency did its homework. Courts cannot verify rule quality, but rule length is a visible indicator of the resources the agency devoted to the rule (Stephenson, 2006). All of this additional effort might mean the rulemaking process proceeds at a slower pace, as extra time time allows lawyers to elaborate the legal record, anticipate and preempt potential litigation, and ensure that procedural boxes are checked This logic suggests a second hypothesis:

> **H2.** *An increased presence of lawyers in an agency is with a more cautious rulemaking approach.*

Evaluating the Lawyer-Bureaucracy Effect

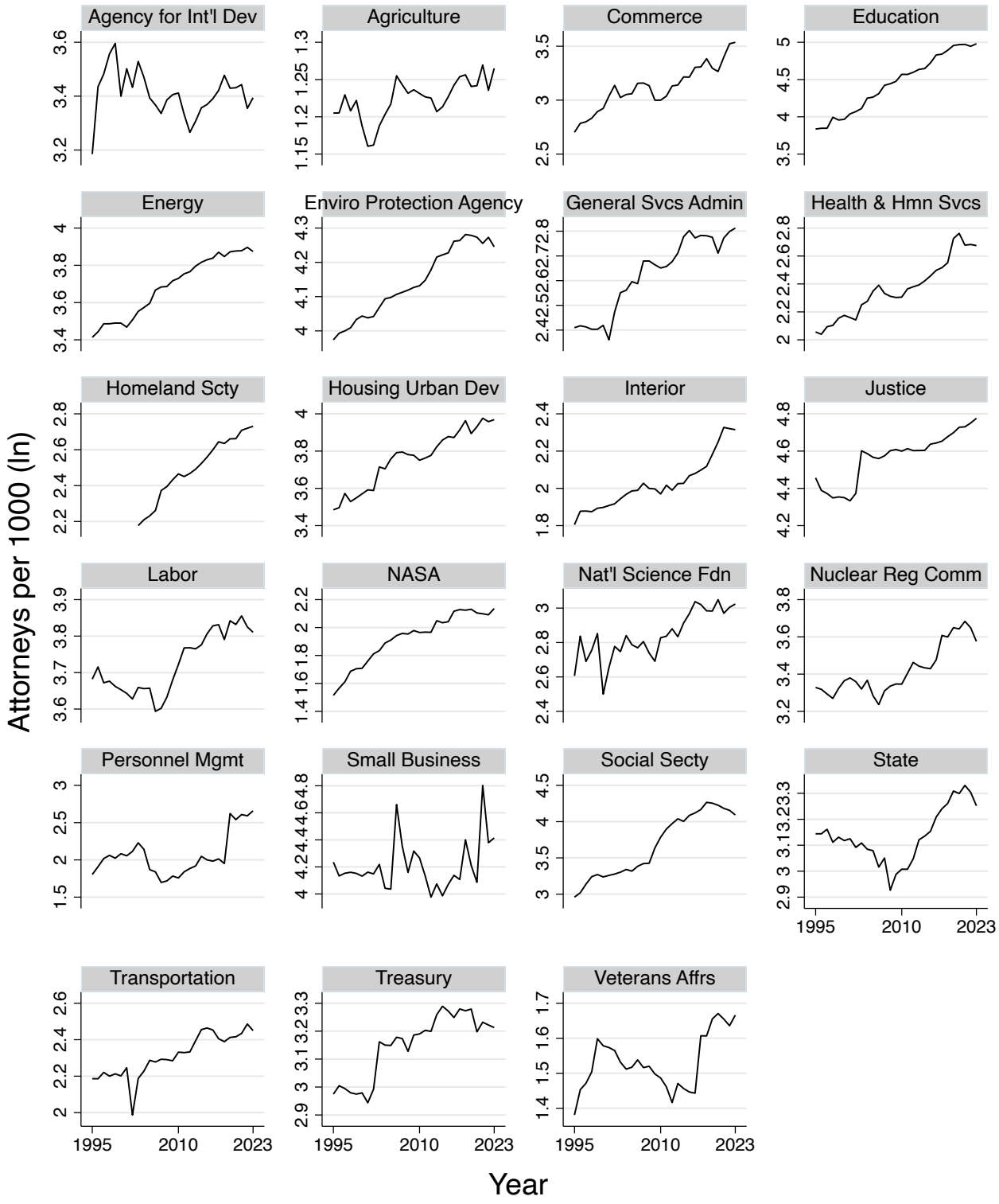
To empirically test these expectations, I collected occupational data from the Office of Personnel Management on attorneys serving in federal agencies in each year from 1995 to 2023.[9] To make the measure comparable across agencies of different sizes, I transform the indicator to a per capita basis, reflecting the number of attorneys in an agency per 1,000 employees. *Attorneys per 1000* has a mean value of 112.6 (std. dev. = 165.0), with some small agencies like the Election Assistance Corporation and the Selective Service System reporting zero attorneys and others reporting high values, like the National Labor Relations Board (489.2, second highest value). It is worth noting that while some agencies

[9] Although OPM data extend back to 1973, I begin the compliance analysis in 1998, the earliest year for which the dependent variables in this part of the study are available. Attorneys were identified by occupational code "0905," which is the general attorney series. The analyses exclude the Department of Defense, since that agency does not release occupational data at the individual level. See Appendix A for a full discussion of the sample, and how the data were collected and coded.

do have missions that may make them more legally oriented, mission does not automatically dictate lawyer presence. For example, although one might expect the Department of Justice to be at the top end of the range, it has a mean value of 96.8, which is below the sample average. This is reflective of the diversity of tasks the agency has in its portfolio, such as prison management, civil rights enforcement, and drug enforcement. In contrast, the Administrative Conference of the United States reports the maximum value (818.1). ACUS is a small agency charged with making administrative reform recommendations, a task that could plausibly be performed by many kinds of professionals; therefore, its concentration of lawyers is noteworthy. Given the skewed distribution of attorneys per capita, in the analyses that follow, I take the natural log (plus one) of attorneys per capita.

As indicated by Figure 2 the logged number of attorneys per 1,000 employees, shown with the solid line, has increased at many, but not all agencies. At some agencies like the Department of

Figure 2: Attorneys in Major Federal Agencies, 1995-2023



Note: Lines indicate the logged number of attorneys in the agency, per 1,000 agency employees. For presentational purposes, only major agencies subject to the Chief Financial Officer Act are shown. Note the different y-axes for each graph.

Education and the Social Security Administration there has been a steady increase in lawyers per capita over time. At other agencies like the Office of Personnel Management, the number of lawyers grew considerably (from 4 per 1,000 employees to 12 per 1,000 employees) but remained relatively low in comparison to other agencies.

This measure addresses individuals who formally serve as *attorneys*, not all individuals who *hold a JD degree*. Ideally, the analysis would also account for federal employees with legal training who serve in non-attorney roles, such as policy analysts, program managers, or senior executives who attended law school (and received that professional training), but do not hold an official attorney title. Unfortunately, the federal government does not systematically collect educational credential data of this kind.[10] To the extent that legally-trained non-attorneys transmit legal professional norms, my estimates based on those with attorney titles can be considered a lower bound on the full lawyer effect.

How large might the gap be? Data on White House staffers offers one reference point. Andrade et al. (2025) collected data on the educational backgrounds of 12,879 White House staffers who served from 1996-2024. Among this pool, approximately 15% (2,044) held JD degrees but only 8% (1,031) served in attorney roles, a gap of roughly seven percentage points. Because White House staffers are drawn from an unusually elite and legally-oriented pool, this gap almost certainly is larger than in the broader population of federal employees.

Nonetheless, with this measure of lawyers' presence in hand, we can turn to empirical testing of the compliance hypothesis introduced previously (H1). Specifically, I employ the following regression equation:

$$Y_{it} = \beta_0 + \beta_1 \ln(\text{Attorneys per } 1000)_{i,t-1} + \lambda_{i,t-1} + \gamma_i + \delta_t + \varepsilon_{it} \tag{1}$$

[10] I verified this fact via a Freedom of Information Act request submitted to the Office of Personnel Management in 2024.

where Y indicates an agency compliance-related outcome,[11] i indexes the agency, and t indexes the year. β_1 is the coefficient of interest. Here, γ and δ represent agency and year fixed effects, respectively, λ is a set of control variables, and ε is the error term. The regression results can thus be interpreted as changes *within* agency, holding constant agency-specific and time-specific factors. This is essential because agencies may have different baseline levels of lawyers in their workforces, so examining changing lawyer levels within the agency isolates the effect of lawyers rather than capturing some sort of mission-related factor that may make particular agencies more or less law-oriented. In the compliance specifications, I lag all covariates by one year to account for the lead time between attorneys and other staff preparing agency workproducts and the public disclosure of compliance violations.

Lawyers and Agency Compliance Orientation

To evaluate the compliance hypothesis, I focus on three procedurally-focused laws and evaluate the extent to which agencies abide by them. The first is the Anti-Deficiency Act (ADA, P.L. 97-258). This law is intended to prevent agencies from overspending beyond the funds appropriated to them by Congress. Violations of the law occur when an agency overspends, either accidentally or intentionally. Compliance requires self-disclosure, as agencies are legally required to notify the Government Accountability Office, the president, and Congress when they violate this law. I code two measures, *ADA violation count* (mean = 0.14; std dev = 0.57), a count of the number of times the agency violated the law in a year, as well as *ADA violations ($)*, which is the logged dollar amount associated with violations reported in a particular year.[12] The ADA data begin in 2005 (the first year regular annual violation reports were made publicly available) and run through 2023.

[11] The rulemaking analyses focus on the rule-level, not the agency-year level, but generally follow a similar setup.

[12] The lowest violation amount reported was $11, reported by the Department of Agriculture in 2006, and the largest is $2.1 billion reported by the Department of Housing and Urban Development in 2009.

The second law is the Paperwork Reduction Act of 1996 (PRA, P.L. 104-13), which requires agencies to get prior approval from the Office of Management and Budget before collecting information from the public. The purpose of the law is to reduce administrative burden on the public. Violations of the law are reported in the Information Collection Budget, an annual report prepared by OMB, and indicate incidences of non-compliance, such as when the agency publishes a form without prior approval. The dependent variable *PRA violation count* (mean = 6.00; std dev = 15.75), a count of the number of times the agency violated the law in a year, assesses compliance with this law. These data span 1998 through 2023.

The third, procedurally-focused law is the Federal Activities Inventory Reform Act (FAIR Act, P.L. 105-270). This obscure law requires agencies to make an annual inventory of the tasks performed by agency personnel and to indicate whether or not those positions are potentially subject to contracting out. These lists must then be shared with Congress and publicly disclosed. Passed in 1998, the intent of the law is to facilitate the outsourcing of government work. It is unclear what (if any) are the repercussions for not complying with the FAIR Act and, accordingly, non-compliance is widespread.[13] To evaluate compliance with this law, I code *FAIR violation* (mean = 0.42; std dev = 0.49), a binary indicator of whether or not an agency violated the law by not publicly posting its annual report. Specifically, I code whether or not the agency posted its FAIR inventory on its website each year, from 2000 to 2023.[14] Appendix section B discusses the coding of all three compliance

[13]Only recently have overseers begun to notice; in 2023 Republican overseers in the House lamented that "it appears the annual [FAIR] inventories are not being comprehensively conducted under [the Biden a]dministration" (`https://oversight.house.gov/wp-content/uploads/2023/04/FAIR-Act-Inventory-Joint-Subcmtee-Chair-Ltr.pdf`), although the evidence suggests the problem of non-compliance preceded that administration. Between 1999 and 2023, CFO agencies fully complied with the law by publicly posting their inventories only 58% of the time.

[14]Failing to post a report does not necessarily mean that the agency did not collect the data and send it to Congress. Rather it means that the agency did not meet the statutory requirement that it "make the list available to the public" (P.L. 105-270, §2(c)(1)). Coding this measure is not straightforward and required

measures in more depth.

The models that follow control for three additional factors that have the potential to touch on lawyers' work, as well as an agency's procedural responsiveness. *Budget (ln)* is the agency's logged budget authority for the prior year. *Rules (ln)* is the logged count of proposed and final rules issued by the agency in the prior year. Finally, *Employees (ln)* is the logged count of agency employees in the prior year, an important factor to address since secular changes in employment levels may also affect counts of lawyers. Descriptive statistics and data sources for all variables are reported in Table C-1 in the Appendix.

With these variables in place, I regress compliance outcomes on the measure of attorney density, *Attorneys per 1000 (ln)*, using Equation 1. Table 1 shows the results, estimated with Poisson for the two count measures (Models 1 and 3), OLS for the model involving monetary violations (Model 2), and logit for the model involving the binary compliance indicator (Model 4). All models include agency and year fixed effects, with standard errors clustered at the agency level.

detailed coding and checking; I discuss the data collection approach in Appendix section B.

Table 1: Lawyers and Procedural Compliance with Three Laws

	(1) ADA violations (count)	(2) ADA violations ($ (ln))	(3) PRA violations (count)	(4) FAIRA violation {0, 1}
Attorneys per 1000 (ln)	-0.459**	-0.856**	0.937	-1.951*
	(0.206)	(0.418)	(0.814)	(1.038)
Budget ($ ln)	-0.155	0.004	-0.042	-0.187
	(0.148)	(0.032)	(0.064)	(0.371)
Rules (ln)	-0.267	-0.129	0.081	0.062
	(0.280)	(0.396)	(0.183)	(0.242)
Employees (ln)	1.820*	1.678	1.024	-1.091
	(0.970)	(2.573)	(0.694)	(0.800)
Constant	–	-10.816	–	–
		(22.065)		
Observations	517	538	1,106	670
Model	Poisson	OLS	Poisson	Logit
R-squared/ Log-likelihood	-239.150	0.030	-2747.378	-244.088
Number of agencies	29	31	48	33
Agency FE	✓	✓	✓	✓
Year FE	✓	✓	✓	✓
Years covered	2005-2023		1998-2023	2000-2023

Note: Table entries are coefficients from Poisson models (Models 1 and 3) of the number of violations of the law that the agency committed in that year. Model 2 is estimated with OLS (ADA violation amounts) and Model 4 (FAIR Act compliance) is estimated with logit. All independent variables are lagged by one year. FE = fixed effect. Two-tailed tests: ***p<0.01, ** p<0.05, * p<0.10.

Across Models 1, 2, and 4, having a higher density of attorneys in an agency is associated with a reduction in the probability of violating compliance-oriented laws. For the Anti-Deficiency Act, a 10% increase in staff attorneys is associated with a 5% decrease in the expected number of violations (Model 1) and a 8.6% decrease in the dollar amounts associated with reported violations. It may seem counterintuitive to have both violations decrease and to have dollars reported decrease. However, this may indicate that lawyers are scrupulous when it comes to violations, reducing the total violation load, but also being willing to report even small violations. (To wit, the smallest ADA violation reported

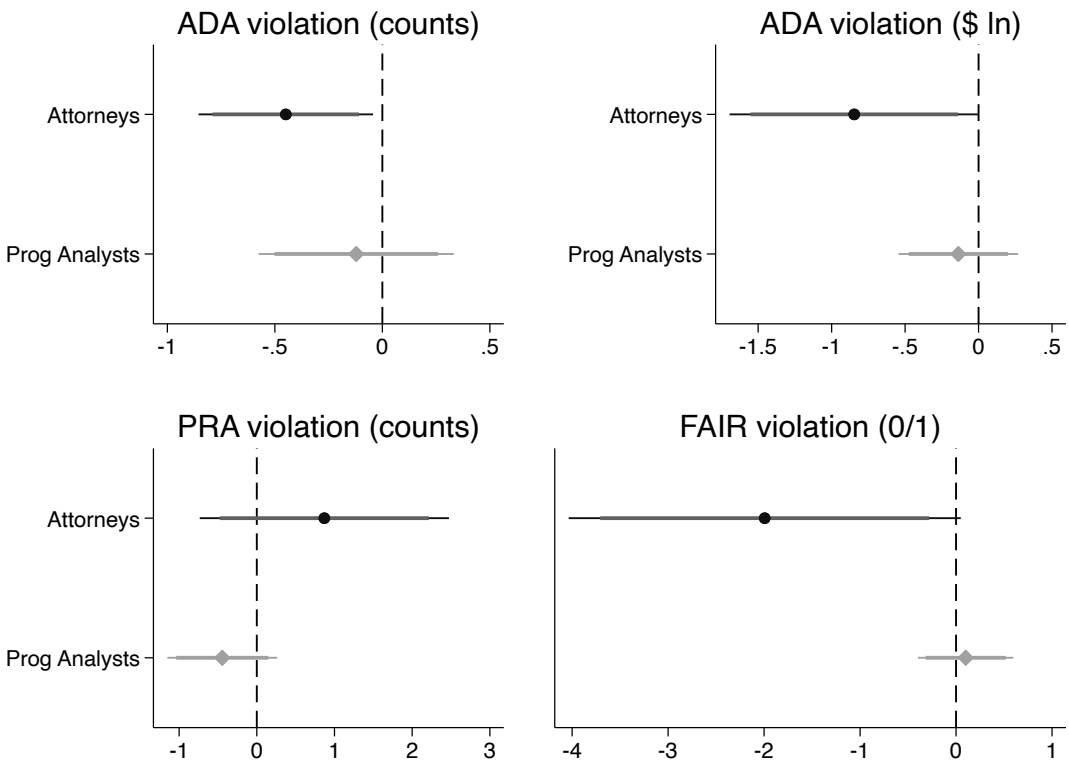
in the dataset is $0.36, suggesting that agencies, at times, pay very close attention to ADA compliance.) Turning to the Paperwork Reduction Act, increasing staff attorneys is not associated with a reduction in the total number of violations (Model 3). Finally, Model 4 shows that a 10% increase in attorneys per 1,000 is associated with 7.7 percentage-point decrease in the probability of violating the FAIR Act. These results indicate a relationship between lawyers and procedural compliance with respect to two of the laws (ADA and FAIR), but not the PRA.

It is worth considering the robustness of these compliance findings. In section C of the Appendix, I consider alternate model specifications. I begin by categorically excluding the Department of Justice from the analyses since its primary mission is focused on the law and its enforcement, meaning that lawyers' roles are the centerpiece of the agency's work in a way that may not be shared across agencies. The results, shown in Table C-2 , are unaffected. In Table C-3 I test for reverse causation, swapping the compliance dependent variables for the lawyer explanatory variable. If violations are causing agencies to add more lawyers, we would expect the swapped violation measures to be positive and statistically significant; they are not.

One way to further probe these findings is to consider whether the results are really about lawyers and legal training, rather than a general professional orientation. To explore this, I rerun the analyses, including the workforce presence of another class of white collar professionals that are comparable to attorneys: program analysts. According to the federal occupational handbook, program analysts "primarily serve as analysts and advisors to management on the evaluation of the effectiveness of government programs and operations or the productivity and efficiency of the management of Federal agencies or both." That means that, like attorneys, they have access to management and the potential to influence agency program and policy choices. Figure 3 shows the results of models that include these professionals, operationalized per 1,000 agency employees; full model results are available in Table C-4 in the Appendix. As the figure shows, although an increase in

lawyers within an agency is associated with reduced violations of the ADA and the FAIR Act, program analysts do not share these associations. In every case the coefficient for the other three professions overlaps with zero. This does not mean that these professionals do not matter for agency outputs, instead it suggests that these professionals are not orienting themselves towards compliance outputs to the same degree as attorneys.

Figure 3: Procedural Violations by Professional Orientation



Note: Figures show LPM coefficients for each of the relevant professions (measured on a per 1,000 employee basis). Full models results are shown in Table C-4.

An additional question that arises relates to the level within an agency hierarchy at which the lawyer effect binds. The *Attorneys per 1,000* measure captures attorneys across all levels of an organization, including staff and leadership levels, but it may be the case that this is really a leadership effect. After all, the management science literature ascribes

considerable importance to whether the top leader, the CEO, holds a JD (Barker III and Mueller, 2002; Henderson et al., 2025; Lewis, Walls and Dowell, 2014; Pham, Merkoulova and Veld, 2023). While agencies differ from firms in important ways, the previous results about lawyers could be a top-down or a bottom-up effect. To evaluate this, I introduce two measures of lawyers' status within an agency. The first, *Agency head has JD*, is a dichotomous indicator of whether the agency head had a JD degree in a given year (mean = 0.44; std dev = 0.50).[15] The second, *Top heavy* is the number of lawyers at the Senior Executive Service or GS-15 level over the total number of lawyers in the agency; as this measure approaches one, attorneys are placed higher up within an agency's hierarchy (mean = 0.41; std dev = 0.23).

Table 2 shows results of models replicating Table 1's legal compliance models, but with these two measures of lawyer leadership. The results tell a nuanced story. In Models 1-4, I consider the independent effect of these two types of lawyer-leaders. Among the three laws, having an agency head with a JD is significantly associated with reductions in the number of ADA violations (Model 1), suggesting an agency led by an attorney is associated with nearly one less violation of the ADA in the next year. A JD agency head also reduces the probability of violating the FAIR Act (Model 4) by 7%, from 0.49 (no JD head) to 0.42 (JD head). The *Top heavy* measure is not significantly associated with compliance for any of the three laws.

The second set of models, Models 5-8, evaluates the joint effect of having both an agency head with a JD and a set of lawyers that is relatively more high ranking. Here we see the for both the PRA and the FAIR Act, having lawyer-heavy leadership is associated with fewer violations. For the PRA, having a stacked lawyer leader agency is associated with about 1.4 fewer PRA violations in a given year (compared to an agency with no JD leader and the lower quartile of top heavy leadership). This leadership setup reduces the

[15]This measure was hand-coded by research assistants, who identified each agency head in each year and coded whether they held a J.D. using publicly available biographical sources, with the annual measure coded 1 if a J.D.-holding leader served for more than half the months in a given year.

probability of violating the FAIR Act by 14%, from 0.50 for agencies at the lower quartile of top heavy without a JD leader, to 0.36% for agencies at the upper quartile with a JD leader.

Table 2: Lawyer Leadership and Procedural Compliance with Three Laws

	(1) ADA violations (count)	(2) ADA violations ($ (ln))	(3) PRA violations (count)	(4) FAIRA violation {0, 1}
Top heavy	-1.530	-0.643	-0.040	-1.034
	(1.621)	(2.956)	(1.877)	(1.613)
Agency head has JD	-0.830**	-1.032	0.233	-0.459*
	(0.369)	(0.865)	(0.166)	(0.272)
	(5)	(6)	(7)	(8)
Top heavy	-2.595	-0.801	0.756	-0.507
	(2.283)	(3.452)	(1.654)	(1.651)
Agency head has JD	-1.441**	-1.145	0.967***	0.549
	(0.706)	(1.733)	(0.271)	(0.655)
Top heavy X Agency head has JD	1.844	0.308	-2.159***	-2.390*
	(2.096)	(3.722)	(0.625)	(1.410)
Observations	409	430	878	650
Model	Poisson	OLS	Poisson	Logit
Number of agencies	23	25	37	32
Controls	✓	✓	✓	✓
Agency FE	✓	✓	✓	✓
Year FE	✓	✓	✓	✓

Note: Table entries are coefficients from Poisson models (Models 1, 3, 5, and7)) of the number of ADA and PRA violations of the law that the agency committed in that year. Models 2 and 6 are estimated with OLS (ADA violation amounts) and Models 4 and 8 (FAIR Act compliance) are estimated with logit. All independent variables are lagged by one year. FE = fixed effect. Two-tailed tests: ***p<0.01, ** p<0.05, * p<0.10.

Overall, these results suggest that lawyer leadership can have an effect on compliance, but not a consistent one. Consideration of the substance of these three laws

helps explain why the legal training of agency leadership matters for some compliance outcomes but not others. The three laws are not equivalent in their political salience or their enforcement bite. ADA violations carry serious consequences, including administrative and criminal penalties and potential imprisonment for implicated individuals. It is therefore unsurprising that an agency head with legal training is attentive to this exposure, as are rank-and-file staff attorneys: the personal and institutional stakes are high enough to command attention throughout the hierarchy. PRA violations are comparatively mild, amounting to little more than having the violation included in an obscure report to Congress. The consequences, while real, do not rise to a level that consistently commands the attention of agency leadership, which may explain why it takes a greater lawyer presence (both at the head level and in the hierarchy) to have lawyers pay consistent attention to this issue. FAIR Act violations are milder still: non-compliance is common, there is no collective reporting to Congress, and there is no meaningful enforcement consequence. Nevertheless, lawyers seem to pay attention to FAIR compliance.

Taken together, these findings suggests that lawyers are more attentive to procedural issues than other types of employees, but that their attention may be strategically allocated to laws that are more politically and legally consequential.

Lawyers and Substantive Policy Outputs

Beyond compliance behaviors, $H2$ hypothesizes that greater attorney presence influences how agencies produce their rules. Rulemaking is an obvious venue to study the effect of lawyers, since rules become law and lawyers are experts at law. To evaluate the hypothesis about an agency's approach to rule production, I rely on data from Chiou and Klingler (2023), who collect comprehensive rulemaking data on more than 10,000 proposed rules published in the *Unified Agenda* from 1995-2019 and track several covariates relating to each rule.[16]

[16]Those authors collect data on 39,311 rules, but I focus on the subset of rules that began with a notice of proposed rulemaking.

*H*2 suggests that too lawyers' influence can lead to a more cautious approach to rulemaking. What might cautious mean in the rulemaking context? I consider rulemaking caution in terms of the length of each proposed rule; *Rule pages (ln)* is the logged number of *Federal Register* pages associated with each proposed rule. Proposed rules vary in length considerably (the mean number of pages is 18 and the longest is 820 pages long) and, as explained previously, observers tend to view long, detailed preambles as a way to insulate rules from future litigation.

Because rules attach to bureaus, and bureaus are nested within departments, the models of rule length use a three-level mixed-effects regression with random intercepts for departments and bureaus (nested within departments).[17] The analyses also control for three aspects of the proposed rule: whether the rule had a statutory deadline; whether the rule had judicial deadline; or whether it was a major rule, meaning that it was considered likely to result in either $100 million in economic costs or to cross some threshold of policy significance. The results are shown in Table 3. The unit of analysis is the proposed rule. All models include year fixed effects.

[17]Not all bureaus are nested within agencies. Some agencies, like the Department of Veterans Affairs or the Securities and Exchange Commission, do not report data disaggregated to lower organizational levels. For these agencies, the bureau and the department are the same. The results in Table 3 are robust to omitting these singular agencies.

Table 3: Lawyers and Proposed Rule Length

	All rules			
	(1)	(2)	(3)	(4)
	Pages (ln)	Pages (ln)	Pages (ln)	Pages (ln)
Attorneys per 1000 (ln)	0.102***	0.097***		
	(0.033)	(0.034)		
Prog analyst per 1000 (ln)		0.082**		
		(0.035)		
Top heavy			0.295	0.258
			(1.221)	(1.311)
Agency head has JD			0.002	-0.003
			(0.021)	(0.040)
Agency head has JD X Top heavy				0.115
				(0.832)
Observations	12,154	12,154	10,773	10,773
Number of agencies	62	62	39	39
Number of bureaus	197	197	172	172

	Major rules only			
	(5)	(6)	(7)	(8)
	Pages (ln)	Pages (ln)	Pages (ln)	Pages (ln)
Attorneys per 1000 (ln)	0.128***	0.123***		
	(0.039)	(0.040)		
Prog analyst per 1000 (ln)		0.074		
		(0.104)		
Top heavy			-0.458	-0.825
			(2.873)	(3.582)
Agency head has JD			0.189*	0.153
			(0.113)	(0.210)
Agency head has JD X Top heavy				0.878
				(3.568)
Observations	913	913	847	847
Number of agencies	30	30	24	24
Number of bureaus	97	97	90	90
Controls	✓	✓	✓	✓
Agency RE	✓	✓	✓	✓
Bureau RE (nested)	✓	✓	✓	✓
Year FE	✓	✓	✓	✓

Note: Table entries are coefficients from mixed-effects regression with random intercepts for departments and bureaus. The dependent variable is the logged number of *Federal Register* pages associated with each proposed rule. RE = random effect; FE = fixed effect. Two-tailed tests: ***p<0.01, ** p<0.05, * p<0.10.

The results in Model 1 in Table 3 show that an increasing presence of lawyers in an agency is associated with longer rules. However, the magnitude of the effect is quite small; a ten percent increase in an agency's lawyer density is associated with a one percent increase in proposed rule length. In models 2-4, I replicate the extensions introduced in the prior section. Model 2 considers the effect of program analysts relative to lawyers. These professionals are significantly associated with page increases, albeit with a similarly small sized effect; a ten percent increase in an agency's program analyst density is associated with less than a one percent (0.8%) increase in proposed rule length. Finally, Models 3 and 4 consider the effects of lawyers in leadership posts. In neither model are lawyer-leaders associated with a meaningful increase in the length of proposed rules. Models 5-8 replicate these four models, but with the set of major rules, those rules that are have economic or policy significance. Again, the non-results are replicated.

Overall, these results indicate that lawyers are just one factor in rule production, and and they are not associated with large increases in the length of proposed rules. Despite the idea that lawyers may bulletproof proposed rules, there does not seem to be a meaningful relationship between attorney density and the length of proposed rule.

Considering lawyers' potential influence on rulemaking raises an important question of whether lawyers affect agency *outcomes*, if not process. The management science literature on lawyer-leaders is somewhat mixed on lawyers' influence on firm outcomes. Many studies find a positive effect of lawyers, showing that their leadership is associated with lower stock market price crash risk (Huang and Ho, 2023; Al Mamun et al., 2021), better stock liquidity (Pham, 2020), better credit ratings and lower cost of debt (Pham, Merkoulova and Veld, 2023), fewer instances of insider trading (Jiang, Wintoki and Xi, 2021; Pham, 2020), and more patents awarded (Dai, Tong and Jia, 2024). However, the association is not universally positive; Barker III and Mueller (2002) report lawyer-leaders spend less on R&D. Other studies show a null effect on firm financial performance (Gottesman and Morey, 2010), as well as an underinvestment in employee-related resources and

training (Tao et al., 2026).

To evaluate lawyers' effects on agency outcomes, I consider whether having more lawyers in an agency affects the fate of rules in the courts. Given their legal focus, the courts are, in some sense, the most natural place to study the effects of lawyers. Specifically, I rely on data collected by Dimenstein, Goodson and Szeto (2025), who tracked the litigation history of all major rules issued by federal agencies between 1996 and 2020.[18] For each rule, the authors code whether the rule was ever litigated in the federal courts and, if so, the outcome of the litigation. Using these data, I code whether a rule was litigated (*Challenged* = {0,1}) and whether or not the agency won the case.[19]

Model 1 in Table 4 evaluates the likelihood of a rule being challenged. This model is estimated with logit and includes both agency and year fixed effects.[20] Here, lawyers have a statistically significant and meaningful association with the likelihood of a rule being challenged. Specifically, a 10% increase in the logged number of attorneys per capita is associated with a 31% increase in the odds of a challenge. This finding is a gut check and rather intuitively suggests that agencies staff attorneys on precisely the rules they most expect to challenged in court.

The more interesting question is not whether attorneys are able to help rules succeed once challenged. However, studying whether agencies succeed more in court when the proposed rule had more attorneys is tricky. Not only does subsetting to the set of cases that were challenged narrow our analytic set of units, it also changes our reference set. As Slough (2023) argues, focusing only on the set of rules that were challenged would ignore

[18]Their data begin in 1996, as this is the year that the Congressional Review Act (P.L. 104-121), the law that defined "major rule," was passed. Their data go through 2025, but I stop the analysis period at the end of 2020 so as to leave room for rules initiated in the Biden administration to wend their way through the courts.

[19]Dimenstein, Goodson and Szeto (2025) code some cases as having a mixed outcome, meaning a partial win and a partial loss for the agency. I take a conservative approach and code these cases as agency losses.

[20]Given the smaller sample (i.e., major rules only), the hierarchical model that accounts for bureaus employed in the previous section is less appropriate.

the "phantom counterfactual," meaning whether or not the rules that were not litigated would have succeeded in the court had they been challenged. To address this issue, I follow her advice and "flatten" the outcomes to three categorical outcomes: (1) rule was not challenged; (2) rule was challenged and the agency succeeded in court; and (3) rule was challenged and the agency lost in court. Columns 2 and 3 in Table 4 show multinomial logit results. Given the flattened categorical outcome, the key comparison of interest is between

Table 4: Litigation Challenges to Rules and Case Outcomes

	(1) Challenged	(2) Not Challenged (Outcome 1 vs. 2)	(3) Challenged & Lost (Outcome 2 vs. 3)
Attorneys per 1000 (ln)	3.148**	-5.005**	-5.387*
	(1.343)	(2.233)	(3.050)
Statutory deadline	-0.153	-0.365	-0.202
	(0.129)	(0.248)	(0.344)
Judicial deadline	0.896**	-0.710	0.410
	(0.388)	(0.474)	(0.503)
Constant	-9.015***	26.044	22.859
	(1.625)	(3,353.433)	(3,353.434)
Model	Logit	Multinomial logit Omitted case: Challenged & Won (Outcome 2)	
Log-likelihood	-451.9	-543.1	
Observations	1,328	1,277	
Agency FE	✓	✓	
Year FE	✓	✓	

Note: FE = fixed effect.Two-tailed tests: ***p<0.01, ** p<0.05, * p<0.10.

outcomes 2 (challenged and won) and 3 (challenged and lost), shown in column 3. Since outcome 2 is the omitted case, the negative and significant coefficient on the lawyers variable in column 3 indicates that, holding all else constant, having greater legal capacity in an agency lowers the odds of losing relative to winning. In short, more legal firepower

is associated with a greater likelihood of the agency winning in court, compared to the odds of the agency losing in court. Specifically, a 10% increase in logged lawyers per capita is associated with a 40% decrease in the odds of losing compared to winning.

The comparison in column 2 between outcome 1 (not challenged) and outcome 2 (challenged and won) confirms the earlier result that proposed rules that are associated with more attorneys are more likely to be litigated. The negative and statistically significant coefficient on *Attorneys per 1000 (ln)* indicates that a rule that had more lawyers per capita has lower odds of being unchallenged relative to being challenged and and won. Put simply, more legal capacity is associated with greater chances of a rule being challenged in court, suggesting once again that, anticipating litigation, agencies have a good sense of which rules to staff attorneys on.

Stepping back, these results suggest that lawyers are influential when it comes to litigation. They are staffed on rules that are expected to be challenged and, once those rules reach they court, they successfully help insulate the agency from negative outcomes in the courts.

Conclusion

The number of advanced degree programs in American higher education has proliferated in recent years, but going to law school remains one of the premier paths to highly powered jobs, including jobs in the federal bureaucracy. While lawyers are well-suited to many positions in the federal government, their training does not make them uniquely qualified for all civil service posts. This paper has attempted to demonstrate the predominance of lawyers within the executive branch and to begin unpacking what these inputs might mean for the outputs of the federal bureaucracy.

The results show a strong and very robust relationship between lawyer presence and procedural compliance. Even after controlling for agency-specific factors, an increase in staff attorneys is associated with enhanced compliance with three laws, some of which

are rather obscure. These effects are specific to lawyers, and not program analysts. Further, the effects of lawyer as leaders are the most detectable for the most consequential law, with the effects less consistent for laws that are less politically salient.

In the context of upholding the rule of law, a focus on compliance is important. However, we might well ask whether compliance with the Anti-Deficiency Act, the Paperwork Reduction Act, or the Federal Activities Inventory Reform Act is what we want highly educated bureaucrats to be focusing on. After all, too much emphasis on compliance can come at the expense of other goals an agency might pursue. And proceduralism for proceduralism's sake can precipitate what Bagley (2019) calls a "procedural fetish" that can, in turn, can foster organizational rigidity. Indeed, many contemporary observers point to proceduralism as a key part of the administrative state's failure to work efficiently and effectively (Klein and Thompson, 2025; Pahlka, 2023; Teles, 2025).[21] These findings suggest that having lots of lawyers in the administrative state may be one mechanism by which proceduralism in the administrative state is perpetuated.

The results with respect to lawyers' role in rulemaking are more mixed. While lawyers are associated with slightly longer proposed rules, the effect size is negligible. Despite expectations to the contrary, lawyers are not systematically contributing to longer proposed rules. However, lawyers' influence is clearly observed in the litigation arena, where greater attorney density is associated with rules that are more likely to be litigated and with rules that are more likely to survive legal challenges. These findings about the importance of lawyers with respect to rule litigation are particularly important since there has been some suggestion that changing judicial deference doctrine precipitated by the recent *Loper Bright* Supreme Court case[22] will only increase the voice of agency lawyers relative to peer bureaucrats (Deacon, 2026).

Overall, then these results suggest that lawyers affect how agencies do their work. This is an important finding, because the occupational staffing of the federal government

[21] At least one study links lawyers and procedural adherence to democratic backsliding (Cummings, 2024).
[22] Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024).

is not a random draw. Rather, it is a choice, guided by political and societal values. As we enter a moment when many are reenvisioning what the administrative *should* look like, the conversation might well include the types of occupations that constitute the federal workforce.

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Appendix

Lawyering Up the Administrative State

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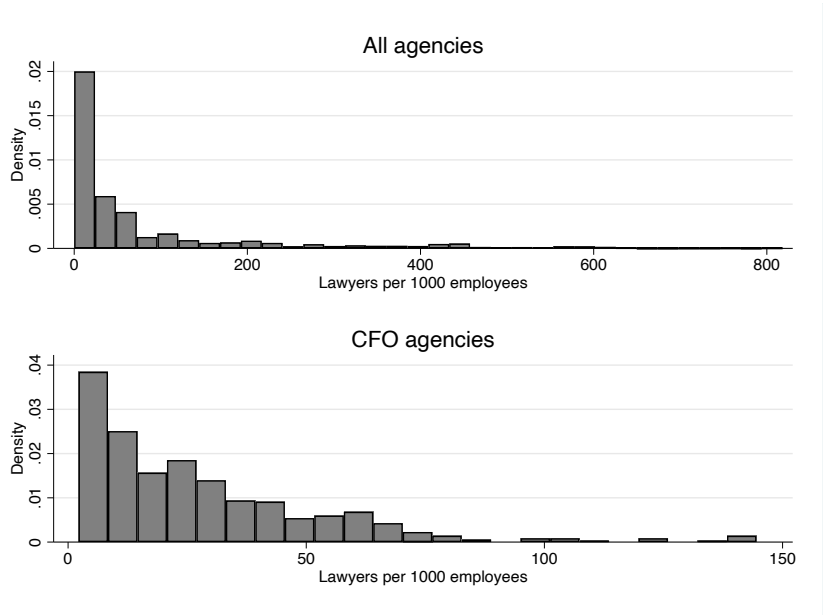
A. Coding Lawyers in Agencies

To develop the measure of *Attorneys per 1000*, I relied on individual personnel data obtained from Freedom of Information Act requests to the Office of Personnel Management. These data list all individuals employed in federal agencies (excluding the Department of Defense and a handful of other small agencies) and the occupational title held by each person. I identify attorneys as those people serving in the "0905 - General Attorney" position, an occupational category that includes attorneys specializing in a wide variety of policy areas, including federal labor law, real property law, maritime law, public utilities law, and veterans law, among others.[1] In calculating the per capita measure, I include only white-collar personnel (as defined by OPM), since these are the positions implicitly being traded off among when agencies hire new attorneys. Figure SI-1 shows the distribution of these data for all agencies (top panel) and among CFO agencies (bottom panel).

In addition to attorneys, Figure 1 includes economists, program analysts, and engineers. To identify economists, I relied on occupational code 0110 (Economist series). Program analysts are those with codes 0343 and 0345 (Management and Program Analysis series), although the latter code was retired in the 1990s. I coded engineers using all positions in the 0800 series (Engineering and Architecture group).

[1]For a full description of the series, see `https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/standards/0900/gs0905.pdf`.

Figure SI-1: Histogram of Attorneys in Agency Workforces



Note: Top panel shows Attorneys per 1000 for all agencies in the data; bottom panel reflects CFO agencies only.

To identify whether or not an agency head had a JD, I had research assistants identify the head of each agency from 1998 to 2023 and the dates each individual served. The research team searched archived versions of agency websites, Wikipedia, and LinkedIn, among other publicly available sources. They then coded whether or not the leader had attended law school based on this biographical information. Because there can be multiple agency heads in one year (particularly at the beginning or end of an administration), I developed a monthly measure of whether in a given month the agency head held a JD. The measure *Agency head has JD* is coded "1" for years in which the agency head had a JD for more than half of the months in a year, and "0" otherwise.

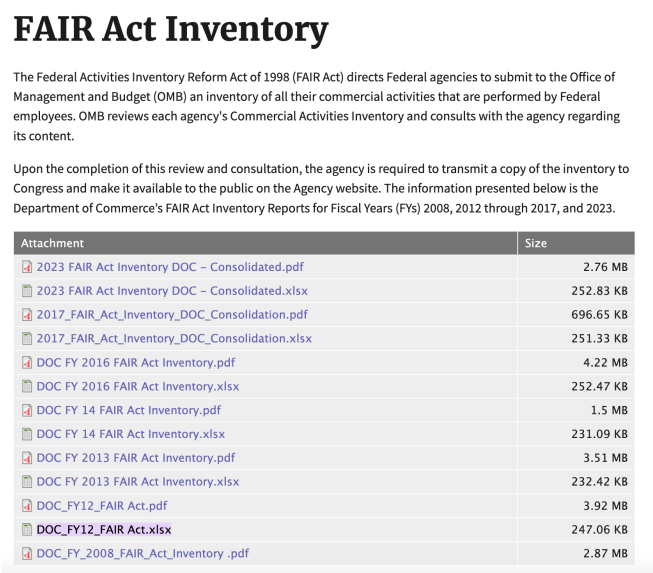
B. Coding Compliance and Risk

To code compliance with the Anti-Deficiency Act and the Paperwork Reduction Act, research assistants coded violations of these laws from annual reports compiled by the Government Accountability Office and the Office of Management and Budget, respectively.

These reports indicate *violations* of these laws in a particular year, but they do not indicate *compliance*. This means it is not clear where to generate the zeroes for agencies that did not violate the law in a given year. While these laws apply broadly to all executive agencies, an examination of violation reports suggests that small agencies rarely report any violations. Regardless of whether this means that these smaller entities have strict compliance or that they are not tracking compliance at all, including them would greatly inflate the sample with many zeroes. Rather than assume that all agencies were fully in compliance if they did not report a violation, I instead only assign an agency as having full compliance (i.e., 0 violations) if that agency ever reported violating the law in question during the time period studied. This ensures that I know the agency was aware of and tracking its compliance obligations under this particular law.

Coding compliance with the Federal Activities Inventory Reform Act was more involved since it required a judgment call as to whether something did *not* exist (i.e., that an inventory was not posted in a given year). Specifically, research assistants scoured current and archived versions of agency websites, as well as current and archived versions of OMB's website (since OMB is required to aggregate FAIR reports and in some years has posted them on its website). In some cases, a missing report was obvious. For example, Figure SI-2 shows a screenshot from the Department of Commerce's website, where inventories are clearly missing for fiscal years 2009-2011, 2015, and 2018-2022.

Figure SI-2: Example of Missing FAIR Act Inventories



FAIR Act Inventory

The Federal Activities Inventory Reform Act of 1998 (FAIR Act) directs Federal agencies to submit to the Office of Management and Budget (OMB) an inventory of all their commercial activities that are performed by Federal employees. OMB reviews each agency's Commercial Activities Inventory and consults with the agency regarding its content.

Upon the completion of this review and consultation, the agency is required to transmit a copy of the inventory to Congress and make it available to the public on the Agency website. The information presented below is the Department of Commerce's FAIR Act Inventory Reports for Fiscal Years (FYs) 2008, 2012 through 2017, and 2023.

Attachment	Size
2023 FAIR Act Inventory DOC – Consolidated.pdf	2.76 MB
2023 FAIR Act Inventory DOC – Consolidated.xlsx	252.83 KB
2017_FAIR_Act_Inventory_DOC_Consolidation.pdf	696.65 KB
2017_FAIR_Act_Inventory_DOC_Consolidation.xlsx	251.33 KB
DOC FY 2016 FAIR Act Inventory.pdf	4.22 MB
DOC FY 2016 FAIR Act Inventory.xlsx	252.47 KB
DOC FY 14 FAIR Act Inventory.pdf	1.5 MB
DOC FY 14 FAIR Act Inventory.xlsx	231.09 KB
DOC FY 2013 FAIR Act Inventory.pdf	3.51 MB
DOC FY 2013 FAIR Act Inventory.xlsx	232.42 KB
DOC_FY12_FAIR Act.pdf	3.92 MB
DOC_FY12_FAIR Act.xlsx	247.06 KB
DOC_FY_2008_FAIR_Act_Inventory .pdf	2.87 MB

Note: Screenshot of the Department of Commerce's website showing reporting gaps for FAIR inventories.

Research assistants nevertheless confirmed that each of these missing values was truly missing, with an additional Google search to confirm that the report did not appear somewhere else where the public could find it (e.g., a good government website). For instance, if a Commerce inventory from a missing year was posted on OMB's website, that inventory would not be coded as missing. Research assistants were instructed to conduct thorough Internet searches to locate inventories and only code a value as missing when all avenues had been exhausted.