Too Tough on Crime?

The Impact of Prosecutor Politics on Incarceration *

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Abstract

Current policy debates suggest that state prosecutors may have been a key force behind the historic rise in US incarceration. This paper investigates how state prosecutors of differing political affiliations influence county-level incarceration. Exploiting quasi-experimental variation generated by close elections, I find that Republican prosecutorial offices sentence defendants to longer incarceration spells as compared to their Democratic and Independent counterparts. This increase in incarceration length is driven by longer sentences for both violent and property offenses, and translates into a persistent increase in incarceration. These sentencing and incarceration enhancements do not lower crime at the county level, indicating that, in terms of public safety, the marginal return to the tough-on-crime stance may be close to zero.

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1 Introduction

The United States currently stands as the world leader in incarceration rates. Incarceration rates have increased consistently for the last few decades despite a steady decline in crime rates since the 1990s (The Sentencing Project, 2018). Legal scholars have posited multiple explanations behind this rise, including the role of mandatory minimum laws, sentence enhancements and the increasingly powerful role of county level prosecutors (Pfaff, 2012). This paper focuses on understanding the role of these county level prosecutors, widely considered to be the most powerful actors within the US criminal justice system, yet heavily understudied (Davis 2017, Starr 2015, Rehavi & Starr 2014).

This paper shows that Republican prosecutorial offices lead to longer incarceration spells as compared to their Democratic and Independent counterparts. These effects are identified using quasi - experimental variation generated by close elections of chief prosecutors at the county level over the period 1980 - 2014. The data indicate that these effects are driven by the lower use of alternative sentences such as restitution, and translate into a persistent increase in incarceration. This rise in incarceration does not lower crime at the county level, as arrests across a variety of categories remain unchanged. Finally, I split the sample into a pre- and post- *Blakely v. Washington 2004* period, to show that increasing judicial discretion was able to offset this increase.

There is broad agreement among legal scholars, judges and practitioners about the dominant role that prosecutors play in determining sentencing outcomes (Stith 2008, Miller 2004, Gilbert & Johnson 1996). This is due the wide latitude they can exercise in deciding whom to prosecute, what offense to prosecute them for, and what sentence to recommend to judges. The power of this discretion is amplified by the fact that most cases are settled via plea bargains, with limited involvement by the judicial branch (Bureau of Justice Statistics 2011). Despite these wide ranging powers, the influence of the prosecutor over the criminal justice system remains understudied, largely due to data constraints (Miller & Wright, 2002).

While much of US-wide work on prosecutors has focused on the federal criminal justice system (Didwania 2018, Rehavi & Starr 2014), this paper focuses on prosecutors within the state criminal

justice system, which accounts for around 90 per cent of the prison population in the US.[1] This is particularly relevant to the current debate on whether the increasing concentration of power in the hands of county-level prosecutors is one of the main forces behind rising incarceration rates in the United States (Pfaff, 2012). This paper tests this hypothesis by looking at whether variation in prosecutorial offices leads to changes in incarceration and sentencing outcomes. Further, I test whether constraints on prosecutors, in the form of increasing judicial discretion, is able to dampen these effects.

This paper also departs from previous work by looking at the effect of DA political affiliation on final sentencing outcomes, *net* of the influence of other county level actors such as law enforcement and the judiciary. Previous work such as Rehavi & Starr (2014) separates the effect of factors such as arrest charge (a decision made by law enforcement), charges filed and recommended sentence (decisions made by prosecutors) and the final sentencing outcome (a decision made by the judicial branch). Since this this paper estimates the effect on *final* sentencing outcomes, these estimates will capture both the direct effect of electing a Republican DA, as well as any offsetting or complementary effects that the DA has on the law enforcement and judicial branches of county government. I show, however, that Republican DA behavior does not appear to drive or be driven by local crime rates.

Existing studies have shown that federal and state prosecutors are responsive to a variety of pressures, including the desire to maximize convictions and sentences, career concerns, resource constraints, minimize risk by encouraging guilty pleas and/or be fair by manipulating charges to avoid excessively harsh sentences (Landes 1971, Easterbrook 1983, Kessler & Piehl 1998, Glaeser *et al.* 2000, Baker & Mezzetti 2001, Schulhofer & Nagel 1996-1997, Bjerk 2005). However, there is limited evidence on whether who occupies the prosecutor role matters. This paper shows that DA political preferences are a significant determinant of sentencing outcomes, and therefore, DA identity should be taken into account in debates about prosecutorial reform.[2] This finding is consistent with previous work on the impact of judge political affiliation - Republican-appointed judges are

[1] See https://www.prisonpolicy.org/reports/pie2018.html

[2] For instance, these results indicate that the push towards increasing diversity within prosecutorial offices may be a fruitful one. See https://wholeads.us/ for more details on this movement.

associated with longer sentences (Sunstein *et al.* 2006, Schanzenbach & Tiller 2007, Schanzenbach & Tiller 2008) as well as higher racial and gender gaps in sentencing (Cohen & Yang, 2017).[3]

This study also contributes to the nascent literature on the spillover effects that one criminal justice agency can have on another. For instance, Chen (2017) shows evidence of significant interactions between racial preferences of prosecutors and judges. This paper shows that prosecutorial political preferences do not appear to spill over onto law enforcement agencies, as reported crime does not increase or decrease across a range of offense categories. Second, it shows that increasing judicial discretion is able to offset the effect of Republican DAs on sentencing outcomes - in the years after *Blakely v. Washington 2004*, which increased state-level judicial discretion, the effect of Republican DAs on sentencing is substantially diminished.[4]

The rest of this paper is organized into four sections. Section 2 provides details on the office of the District Attorney in the US as well as the datasets used for the analysis. Section 3 outlines the regression discontinuity design used for identification, and Section 4 presents the empirical results. Section 5 concludes.

2 Setting and Data

This section provides an overview of the office of the District Attorney within the United States, datasets used for the analysis and some descriptive statistics.

District Attorneys

In the state criminal justice system, chief prosecutors represent the government and head offices that are responsible for prosecuting criminal charges against individuals and corporations within

[3]Possible mechanisms include greater support for mandatory minimums among Republicans (https://www.themarshallproject.org/2016/07/18/two-parties-two-platforms-on-criminal-justice) which have been shown to increase racial disparities in sentencing outcomes (Yang 2015, Rehavi & Starr 2014).

[4]This exercise is motivated by the fact that research on sentencing in federal courts has found increases in both inter-judge sentencing disparities (Scott 2010, Yang 2014) and racial disparities (USSC 2012, Fischman & Schanzenbach 2012, Yang 2015) in the years following the Supreme Court's decision in *United States v. Booker*, which increased federal judicial discretion. *Blakely v. Washington 2004* was a case with a holding very similar to *United States v. Booker* but which applied only to state court cases (Schmitt *et al.* , 2013-14).

each county for four-year terms.[5] Chief prosecutors are called District Attorneys (henceforth, DA) in most states, but may also be referred to as County Attorneys (Arizona, Missouri), Commonwealth Attorneys (Kentucky, Virginia), State's Attorneys (Florida, Illinois) or Prosecuting Attorneys (Arkansas, Idaho).[6] In Delaware and Rhode Island, the Attorney General prosecutes crimes within the entire state.

Prosecutors possess immense discretion, beginning with whether and what charges to bring against a defendant, and ending in a sentence recommendation to the presiding judge. This discretion is compounded by the fact that the vast majority of convictions are the product of guilty pleas - for instance, the National Judicial Reporting Program data (described in detail below) indicates that in counties with competitive DA elections, plea bargaining was the mode of conviction for over 95 per cent of convicted felons, with jury and bench trials accounting for less than 5 per cent. As chief prosecutors for their counties, DAs set charging and sentencing guidelines for their entire prosecutorial staff, which can include declining to prosecute certain charges, recommending sentencing ranges that are narrower than those mandated by law and even diversion away from incarceration-based sentences.[7] It is natural, therefore, to examine their influence on sentencing practices of the county as a whole.

With the exception of Alaska, Connecticut, District of Columbia and New Jersey, chief prosecutors at the county level are elected across the U.S.[8] As of 2014, there were over 2,400 elected chief prosecutors in the U.S.[9] Like state legislative and judicial elections in the U.S., these races carry large incumbent advantages and have been criticized as being poor accountability mechanisms for prosecutors (Lim & Snyder 2012, Wright 2009). However, as Table 1 shows, there exist enough competitive elections to permit the identification of the effects of DA identity on a variety of criminal justice outcomes.

[5] In some cases, chief prosecutors may represent a handful of counties instead of a single county, and/or be appointed for five or six-year terms.

[6] In states like Kentucky and Virginia, districts have *both* a County Attorney and District Attorney. In these special cases, County Attorneys usually prosecute only certain misdemeanors and sometimes traffic matters, while the District Attorney handles all other prosecutions including felonies. In these special cases, the empirical analysis only focuses on the electoral outcome of the District Attorney (who is more likely to decide on criminal sentences) in the analysis.

[7] See https://www.documentcloud.org/documents/4415817-Philadelphia-DA-Larry-Krasner-s-Revolutionary-Memo.html for a recent example.

[8] See https://www.cga.ct.gov/2003/rpt/2003-R-0231.htm for more details.

[9] https://wholeads.us/wp-content/uploads/2018/09/Justice-For-All-Report.pdf

TABLE 1: COUNTIES WITH COMPETITIVE DISTRICT ATTORNEY ELECTIONS BY YEAR

Year of Election	Political Affiliation	
	Democratic/Independent	Republican
2010-14	193	224
2000-09	354	277
1990-99	167	119
1980-89	82	49
Total	796	669

Notes: Competitive Elections indicates that at least two candidates participated in the general election for the District Attorney seat. Election data is collected from secretary of state and state board of election websites. District Attorneys terms usually last four years.

Data

This section describes the five data sources used in this paper: (1) District Attorney Elections (collated), (2) Who Prosecutes in America?, (3) the National Corrections Reporting Program, (4) the National Judicial Reporting Program, and (5) the Incarceration Trends Dataset.

District Attorney Elections 1980 - 2014 The primary source of identification used in this paper is close DA elections. To that end, data on competitive DA elections (those with at least two candidates) was obtained from various state government websites, including those managed by Secretaries of State and State Boards of Elections. Table A.1 highlights which states and election years contributed to this dataset, and Table 1 summarizes the number of races by winner political affiliation.

Who Prosecutes in America? The DA election data was supplemented by data on prosecutor identity obtained from *Who Prosecutes in America?*, a project of the Reflective Democracy Campaign that seeks to increase the political representation of minorities.

National Corrections Reporting Program (NCRP) 1982 - 2015 Data from the National Corrections Reporting Program is used to obtain a comprehensive description of prisoners entering the custody of state authorities each year. Not only does this dataset provide offender-level information on demographics, incarceration history, current offenses and total time served, it also indicates

which county each offender was sentenced in. Information on the county of sentence imposition in the NCRP is used to link each incarcerated offender to DA electoral outcomes. The number of NCRP cases that are successfully linked to the DA election database is just under 600,000.

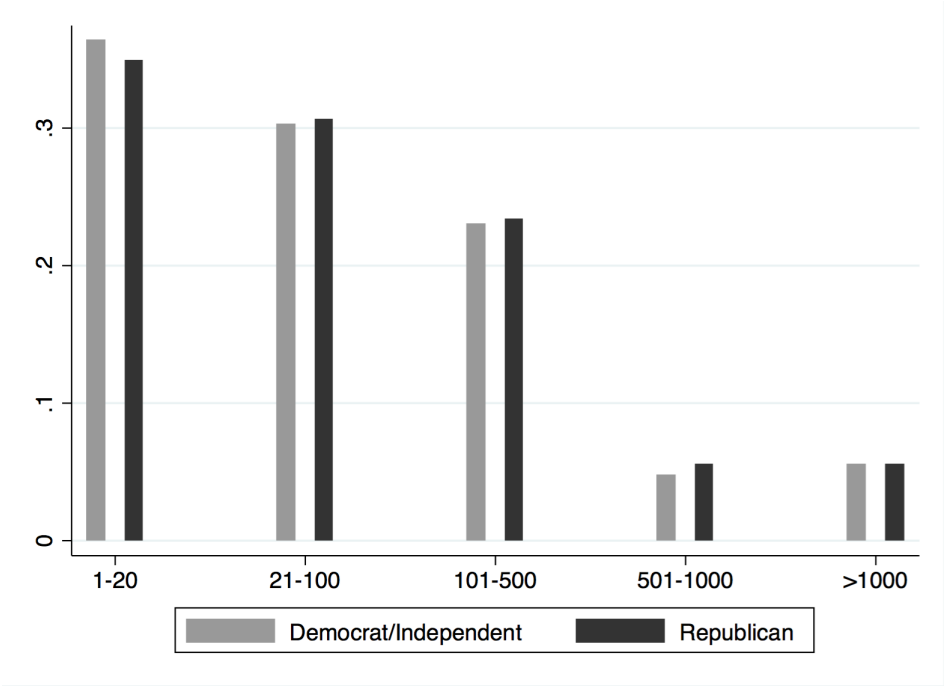
National Judicial Reporting Program (NJRP) 1986 - 2006 This dataset provides detailed information on the sentences and characteristics of convicted felons based on data collected from state courts in a sample of 300 counties. Since this dataset is significantly smaller in geographic scope, it is used as supplement to the NCRP data. It includes additional information on sentencing such as sentences other than jail or prison, length of suspended/deferred sentences, type of conviction (plea or trial), and even days between arrest and sentencing. Therefore, it used to explore the mechanisms behind the results found using the NCRP data. The number of NJRP cases that are successfully linked to the DA election database is just over 200,000.

Incarceration Trends Dataset The Incarceration Trends Dataset, assembled by the Vera Institute of Justice, provides county-level data on individuals incarcerated in prison and jail for the entire country for the periods 1983-2015 and 1970-2015 respectively. This dataset is based on information collected by the U.S. Department of Justice Bureau of Justice Statistics (BJS) as well as data from state departments of correction.

An additional advantage of this dataset is that it includes crime data collected through the Uniform Crime Reporting Program (UCR) by the Federal Bureau of Investigation (FBI). This data is matched with DA electoral outcomes to understand whether DA behavior drives and/or is driven by crime rates within their jurisdictions.

Finally, this dataset also contains information on population estimates and geographic information collected by the U.S. Census Bureau, the Centers for Disease Control and Prevention (CDC), and the U.S. Department of Agriculture (USDA). This information is used to show that counties that narrowly elect Republican DAs do not differ systematically from those that narrowly elect Democratic or Independent DAs.

FIGURE 1: DISTRIBUTION OF NUMBER OF SENTENCES BY CHIEF PROSECUTOR POLITICAL AFFILIATION



Notes: This graph uses NCRP data for counties in which chief prosecutors faced at least one electoral competitor.

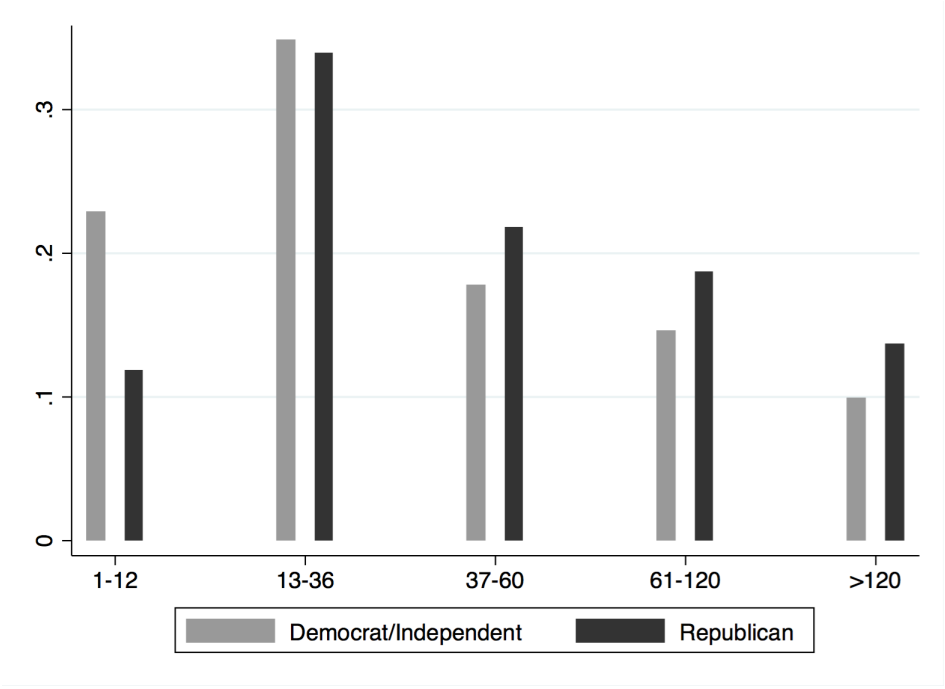
Descriptive Statistics

This section provides an overview of the DA Elections and NCRP datasets, as these are used for the core of the empirical analysis.

As alluded to above, we need enough close DA elections to be able to study the impact of DA affiliation on arrest and sentencing outcomes within each county. Table A.1 shows which state-year combinations contributed to the construction of this dataset - information on competitive elections is drawn from twenty six states over the period 1981-2014. This information is summarized and split by DA political affiliation in Table 1, which indicates that the dataset comprises of over 1,400 competitive DA races, with over 45 per cent ending in a Republican occupying the DA office.

Are there broad differences in sentencing patterns between counties with Republican DAs versus those with Democrat or Independent DAs? The data indicate that while the number of people sentenced to prison does not vary systematically by DA political affiliation, the length of

FIGURE 2: SENTENCE LENGTH DISTRIBUTION (MONTHS) BY CHIEF PROSECUTOR POLITICAL AFFILIATION



Notes: This graph uses NCRP data for counties in which chief prosecutors faced at least one electoral competitor.

prison sentences does. Figure 1 shows the distribution of the number of prison admissions by political affiliation of the chief prosecutor, while Figure 2 repeats this exercise for sentence length of prison admittees.

While there do not appear to be stark differences by DA political affiliation for the number of prison admissions, we do see interesting patterns when we examine the distributions of sentence length. The proportion of prison admittees with sentences of up to a year is over twenty per cent for DAs that identify as Democratic/Independent, but around eleven per cent for those that identify as Republican. On the flip side, the proportion of prison admittees that get sentences that are longer than three years is consistently higher for counties with Republican DAs. In the empirical analysis, I leverage close elections to show that this relationship is causal - Republican DAs lead to longer criminal sentences, even after controlling for a host of offender and offense characteristics.

3 Empirical Strategy

This section outlines the strategy to estimate the effect of electing DAs who are politically affiliated with the Republican Party as opposed to running as Democratic or Independent candidates. Quasi-experimental variation in DA identity from close elections is used to set up a sharp regression discontinuity (RD) design. While the primary focus of this section is on statistical tests, graphical evidence is presented as a complement throughout the rest of the paper.

Estimates of the effect of DA identity are obtained by using local linear functions within a narrow bandwidth of close DA elections. I estimate standard RD specifications of the form

$$Y_i = \alpha + \beta D_i + f(V_i) + u_i \qquad (1)$$

where Y_i is the outcome variable, e.g. the number of sentences, V_i is the forcing variable, the Republican vote share in the DA election, and D_i is an indicator variable taking the value of 1 if the county elects a Republican DA and 0 if the county elects a Democratic/Independent DA. The parameter of interest is β, the treatment effect of having a Republican DA, which is mandated if the Republican vote share is above 0.5. Following Hahn *et al.* (2001) and Porter (2003), equation (1) is estimated by nonparametric local linear regressions within a close bandwidth of the threshold vote share 0.5. I follow Calonico *et al.* (2014) to select these optimal bandwidths, and obtain bias-corrected point estimates and valid confidence intervals.

It should be noted that the RD design is embedded in a panel context, since the treatment (Republican DA) is determined according to the realization of the vote share every election year. However, following the recommendation of Lee & Lemieux (2010), I conduct the RD analysis for the entire pooled-cross-section dataset, since the source of identification is a comparison between those just below and above the threshold, and can be carried out with a single cross-section. Further, I cluster standard errors at the county level to account for within-county dependence over time.

4 Results

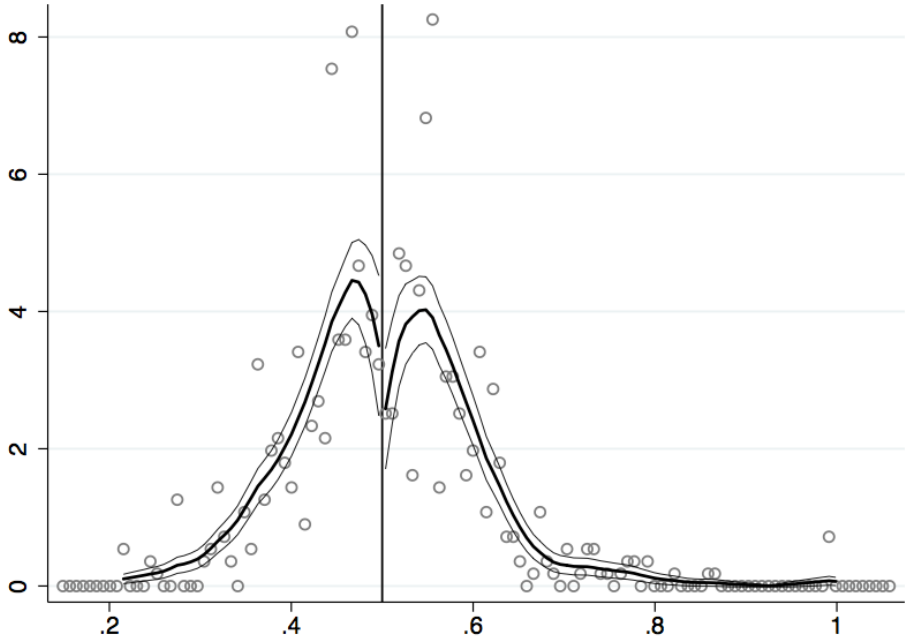
In this section, I present results on the effect of Republican District Attorneys on the number and length of prison sentences, as well as the size of incarcerated populations. Additionally, I test some possible mechanisms behind these results, such as the differential use of non-carceral sentences. I also examine spillover effects onto local crime, but find no evidence that sentence enhancements by Republican District Attorneys improve public safety. Finally, I show that the effects on sentencing dissipate when judges are granted more discretion in the years following *Blakely v. Washington 2004*.

Manipulation Tests

I first test for sorting around the treatment threshold by searching for a sharp break in the distribution of the running variable, Republican vote share, at the threshold 0.5. I use two approaches to test for sorting - first, I use the McCrary (2008) test to show that the density of Republican vote share is continuous at the threshold 0.5. Figure 3 displays the result from the McCrary test graphically. The graphs do not show significant evidence of a discontinuity in the distribution of the running variable at 0.5. In addition, the estimate from the McCrary density test is statistically insignificant (p-value of 0.2767). Second, I follow Cattaneo *et al.* 2017 to test for manipulation in voteshare density without pre-binning the data. Table 2 shows no significant discontinuity in voteshare density for four distinct orders of the local-polynomial used to construct the density point estimator.

Next, I test for discontinuities in county-level demographics at the treatment threshold. The first two rows of Table 3 shows that county demographics and educational attainment does not vary discontinuously as the Republican vote share exceeds 0.5. The final two rows show that at the time of the DA election, crime and incarceration rates are also balanced at the threshold 0.5. Overall, these tests support the use of the RD design with Republican vote share as the forcing variable.

FIGURE 3: MCCRARY TEST FOR DISCONTINUITY IN VOTESHARE DENSITY AT 0.5



Notes: The McCrary test is not able to reject the null hypothesis of no discontinuity at the threshold 0.5 - the point estimate is -0.3475 with a p-value of 0.2767.

TABLE 2: CATTANEO *et al.* (2017) TEST FOR DISCONTINUITY IN VOTESHARE DENSITY AT 0.5

Polynomial Order	1	2	3	4
Test Statistic	-0.5327	-0.1243	0.9722	1.2852
p-value	(0.5942)	(0.9011)	(0.3310)	(0.1987)
Left Bandwidth	0.021	0.059	0.103	0.103
Right Bandwidth	0.027	0.042	0.104	0.122
N	123	323	559	594

Notes: This table presents estimates of discontinuities in the density of the running variable as Republican voteshare exceeds 0.5. Election data is collected from secretary of state and state board of election websites.

Sentencing Outcomes

DA offices can affect prison populations in one of two overlapping ways - they may send more people to prison, or they can send people to serve longer prison sentences, or both. I first examine whether the number of individuals entering prison increases under a Republican DA. Column 1

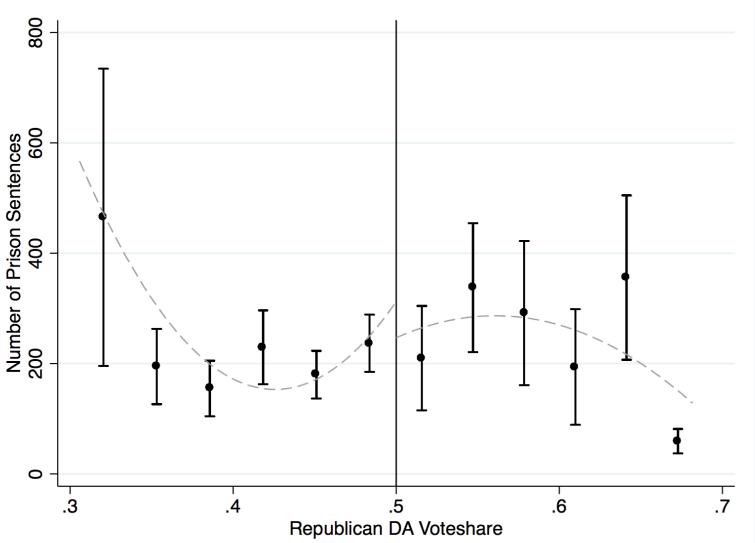
TABLE 3: DISCONTINUITIES IN BASELINE CHARACTERISTICS

		Educational Attainment: Proportion of Adult Population with		
	Population	Less Than a High School Diploma	High School Diploma	Some College (1-3 Years)
Republican DA	25.187	-0.017	-0.001	-0.0004
	[-231.837, 282.21]	[-.06, .027]	[-.029, .028]	[-.024, .023]
Bandwidth	0.088	0.087	0.063	0.094
N	829	827	669	861
Mean	141.401	0.239	0.329	0.253
		Population Aged 15-64		
	Total	Male	Black	White
Republican DA	19.984	9.937	7.268	-8.145
	[-154.985, 194.953]	[-77.64, 97.513]	[-28.949, 43.485]	[-74.252, 57.962]
Bandwidth	0.090	0.089	0.086	0.082
N	840	834	823	796
Mean	95.105	47.303	13.959	59.091
		Uniform Crime Reports		
	Population Covered	Index Crime	Violent Crime	Property Crime
Republican DA	39.716	-4.382	-0.342	-4.074
	[-222.503, 301.935]	[-19.622, 10.858]	[-2.455, 1.77]	[-17.25, 9.103]
Bandwidth	0.094	0.065	0.072	0.064
N	846	665	712	662
Mean	136.653	7.292	0.869	6.410
	Jail Admissions	Jail Population	Prison Admissions	Prison Population
Republican DA	-2.306	-0.072	0.066	-0.089
	[-12.406, 7.794]	[-.817, .673]	[-1.09, 1.223]	[-2.632, 2.455]
Bandwidth	0.064	0.077	0.080	0.076
N	652	747	667	634
Mean	6.687	0.353	0.388	0.837

Notes: This table presents estimates of discontinuities in pre-determined characteristics as recorded in the decennial census and the Incarceration Trends dataset (based on data collected by the US Census Bureau, the Centers for Disease Control and Prevention, the U.S. Department of Agriculture, the Federal Bureau of Investigation and the U.S. Department of Justice Bureau of Justice Statistics). Population, crime, jail and prison estimates in thousands. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Standard errors are clustered at the county level. Robust 95% confidence intervals in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$.

of Table 4 shows the impact on the total number of individuals admitted to prison each year - while the coefficient is negative, it is not statistically distinguishable from zero. Figure 4 supports this conclusion - there is no evidence of a visible discontinuity in the number of people sentenced to prison when the county has a Republican DA. Columns 2-5 of Table 4 separately estimate the impact on the number of individuals sentenced by sex and race - while each of these estimates are negative, they remain statistically indistinguishable from zero.

FIGURE 4: DISCONTINUITIES IN THE NUMBER OF SENTENCES



Notes: This figure shows the relationship between the number of individuals sentenced to prison within a county by the Republican District Attorney voteshare. Sentencing data is from the National Corrections Reporting Program 1983-2015 is binned and displayed along with 95% confidence intervals. Voteshare data is collected from secretary of state and state board of election websites.

TABLE 4: DISCONTINUITIES IN THE NUMBER OF PRISON SENTENCES

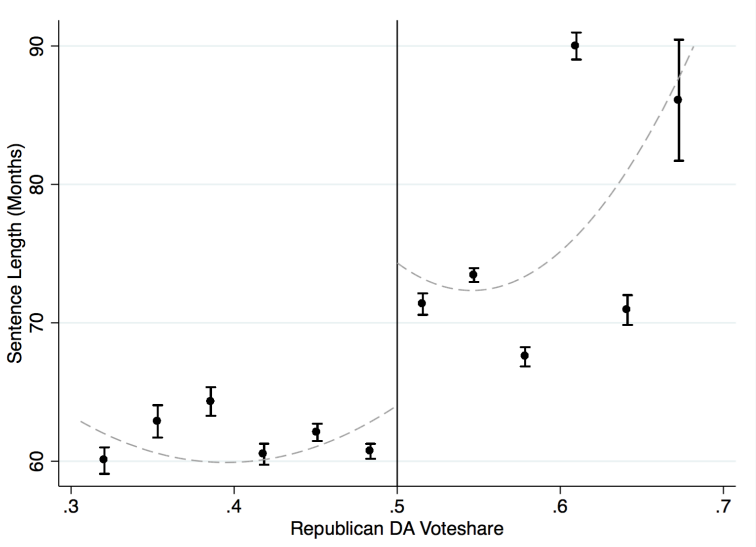
	All	Male	Female	White	Black
Republican DA	-111.964	-98.585	-13.262	-74.621	-89.688
	[-450.02, 226.092]	[-393.584, 196.413]	[-57.069, 30.545]	[-215.46, 66.218]	[-295.836, 116.46]
Bandwidth	0.062	0.062	0.063	0.061	0.055
N	1239	1239	1245	1235	1100
Mean	242.953	215.850	26.962	104.498	124.045

Notes: This table presents estimates of discontinuities in the number of prison sentences as Republican DA voteshare exceeds 0.5. Sentencing data is obtained from the National Corrections Reporting Program, while voteshare data is collected from secretary of state and state board of election websites. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Regressions control for total population as well as proportion of White and male population at the county level. Standard errors are clustered at the county level. Robust 95% confidence intervals in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$.

Next, I examine whether DA political affiliation affects the number of offenders by type of criminal charge. Table A.3 displays the estimated impact of Republican District Attorneys on the twenty-five most common offense types in the NCRP data. Overall, we do not observe a consistent pattern across offense types - the number of individuals sentenced for unarmed robbery and stolen property offenses is lower, but the number sentenced for certain drug offenses is higher. Overall, these results indicate that DA political affiliation does not systematically influence how many people are sent to prison when we look at offenders across different crime categories.

Next, I examine whether prison sentence lengths are affected by the election of a Republican DA. The rationale is that while prosecutors may not differ in whom they charge, they may differ in their beliefs about appropriate sentences for each offense. Figure 5 shows that sentence length increases discontinuously as we cross the threshold vote share of 0.5, and continues to increase in the electoral strength of the Republican DA.

FIGURE 5: DISCONTINUITIES IN SENTENCE LENGTH



Notes: This figure shows the relationship between sentence length (for individuals sentenced to prison) within a county by the Republican District Attorney voteshare. Sentencing data is from the National Corrections Reporting Program 1983-2015 is binned and displayed along with 95% confidence intervals. Voteshare data is collected from secretary of state and state board of election websites.

Table 5 first quantifies this effect for all convicts, and then separately estimates the effect on sentence length by offender sex and race. These regressions control for four characteristics that would mechanically affect sentence length - age, primary offense, the existence of additional of-

TABLE 5: DISCONTINUITIES IN THE LENGTH OF PRISON SENTENCES

	All	Male	Female	White	Black
Republican DA	57.496**	59.040**	2.805	26.198**	72.774
	[3.866, 111.127]	[6.497, 111.583]	[-17.034, 22.644]	[3.31, 49.087]	[-22.651, 168.2]
Bandwidth	0.018	0.018	0.037	0.031	0.021
N	65397	57555	17503	52376	33772
Mean	77.282	81.019	44.295	61.775	82.790

Notes: This table presents estimates of discontinuities in the length of prison sentences as Republican DA voteshare exceeds 0.5. Sentencing data is obtained from the National Corrections Reporting Program, while voteshare data is collected from secretary of state and state board of election websites. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Regressions control for total population as well as proportion of White and male population at the county level, as well as offender age, prior felony incarceration, multiple offense charges, and indicators for the most common offense charges. Standard errors are clustered at the county level. Robust 95% confidence intervals in parentheses. * p < 0.1, ** p < 0.05, *** p < 0.01.

fense charges, and prior felony incarceration. We see that apart from female offenders, sentence length increases consistently across demographic categories. The point estimates are larger for male and Black defendants, although overlapping confidence intervals indicate that these differences are not statistically significant.

Table A.4 repeats this exercise by type of offense. We observe large, significant increases in sentence length for violent crimes such as rape and armed robbery, as well as property offenses like burglary, auto theft, grand larceny and receiving stolen property. There does not exist a consistent pattern of effects on sentences for drug offenses.

Incarceration

Did these sentence length enhancements affect incarceration at the county level? And do these effects persist over time? To answer these questions, I estimate the impact of a Republican DA on incarcerated populations for up to ten years after the initial election. Year-by-year estimates are displayed graphically in Figure 6.

Table 6 shows that the election of a Republican DA leads to a persistent increase in incarcerated population at the county level. These effects are driven by an increase in prison, not jail, populations. This is supported by Figure 6 - in the four years following the DA election (the usual term for a DA) we see a bump in jail population, but this effect dissipates once the term comes to

an end. Prison population, however, is persistently affected, as offenders with longer sentences continue to serve out the rest of their terms even after Republican DAs have left office.

TABLE 6: DISCONTINUITIES IN INCARCERATION AND CRIME OUTCOMES OVER 10 YEARS

	Prison Population	Jail Population	Violent Crime	Property Crime
Republican DA	435.744***	37.344	-219.474	-277.057
	[83.86, 787.629]	[-71.675, 146.363]	[-831.111, 392.163]	[-2037.76, 1483.65]
N	1651	1890	2547	2006
Bandwidth	0.041	0.040	0.048	0.039
Mean	646.720	331.142	807.310	5439.345

Notes: This table presents estimates of discontinuities in incarcerated populations and number of criminal offenses as Republican DA voteshare exceeds 0.5. Estimates are based on a sample of ten years following each election to capture dynamic effects of a Republican DA. Attention is restricted to elections between 1982 and 2005 to ensure that at least 10 years of follow up data is available for each election. Incarcerated population and offending data is obtained from the Incarceration Trends dataset, while voteshare data is collected from secretary of state and state board of election websites. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Regressions control for total population as well as proportion of White and male population at the county level, as well as offender age, prior felony incarceration, multiple offense charges, and indicators for the most common offense charges. Standard errors are clustered at the county level. Robust 95% confidence intervals in parentheses. * p < 0.1, ** p < 0.05, *** p < 0.01.

Public Safety

Next, I examine whether these sentence length enhancements lower crime rates or are driven by higher crime rates in counties that elect Republican District Attorneys. Table 3 shows that neither of these narratives are supported by the data - arrests are unrelated to the close election of a Republican DA. Year-by-year estimates are displayed in Figure 7. Table A.5 repeats this analysis to test for effects on crime categories for which sentence enhancements were observed above - rape, assault, robbery, burglary, theft and drug offenses. We see that except for rape offenses, none of the coefficients are negative and statistically significant, indicating that most local crime is neither the cause of nor deterred by harsher sentencing by Republican District Attorneys.

Mechanisms

While the above results demonstrate that DA political affiliation matters for sentencing, it does not illuminate the stage at which these differences appear. For instance, these findings may be

driven by higher propensities to charge multiple crimes or recommend carceral sentences. Table 7 tests some of these mechanisms using NJRP data. The power to detect discontinuous changes in sentencing is mechanically lower since there fewer counties are observed in this dataset.

TABLE 7: IMPACT OF REPUBLICAN DISTRICT ATTORNEYS ON SENTENCE LENGTH: MECHANISMS

	Type of Sentence				Nature of Charges/Sentence		
	Jail/Prison	Probation	Fines	Restitution	Number of Charges	Concurrent Sentences	Consecutive Sentences
Republican DA	0.343	-0.805	-0.194	-0.964***	-0.488*	-0.099	-0.021
	[-.106,.791]	[-1.891,.282]	[-.575,.187]	[-1.642,-.286]	[-.996,.019]	[-.23,.031]	[-.066,.023]
Bandwidth	0.033	0.031	0.028	0.027	0.020	0.034	0.032
N	60506	54468	38150	36152	50418	54205	48482
Mean	0.678	0.505	0.112	0.160	1.407	0.164	0.006

Notes: This table presents estimates of discontinuities in sentencing outcomes as Republican DA voteshare exceeds 0.5. Sentencing data is obtained from the National Judicial Reporting Program (2011), while voteshare data is collected from secretary of state and state board of election websites. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Standard errors are clustered at the county level. Robust 95% confidence intervals in parentheses. * p < 0.1, ** p < 0.05, *** p < 0.01.

The first four columns display the impact of Republican District Attorneys on the type of sentence each convict faces.[10] The estimated impact on the probability of facing a carceral sentence is positive, while those of facing alternative sentences are all negative; however, none of these estimates are statistically significant when we consider robust standard errors, and therefore, remain indicative.

Next, I examine whether these longer sentences are a by-product of the fact that defendants were charged with multiple offenses, or were charged with concurrent or consecutive sentences. The last three columns of Table 7 show that this is not the case - while these estimates are not statistically significant when we look at the confidence intervals based on robust standard errors, each of these estimates are negative, indicating that these are likely not the cause of longer sentences.

Increasing Judicial Discretion *Blakely v. Washington 2004*

Finally, I examine whether the estimated effects on sentencing length were offset in a period of increased judicial discretion in state level courts in the post *Blakely v. Washington 2004* period. Table

[10] Convicts may face more than one type of sentence.

8 displays these results. We see that while Republican District Attorneys lead to large increases in sentence length in the period 1980-2004, these effects are absent in the period 2005-15. This indicates that the judicial branch may be capable of blocking, and in fact, entirely offsetting the influence of political preferences of prosecutorial offices.

TABLE 8: IMPACT OF REPUBLICAN DISTRICT ATTORNEYS ON SENTENCE LENGTHS: PRE- AND POST-*Blakely v Washington 2004*

	1980-2004			2005-2015		
	All	White	Black	All	White	Black
Republican DA	26.308*** [13.71,38.91]	33.976*** [24.56,43.39]	12.774 [-4.43,29.98]	-35.373 [-99.26,28.51]	-17.394 [-65.02,30.23]	-11.336 [-91.95,69.28]
Bandwidth	0.044	0.030	0.066	0.033	0.040	0.030
N	114107	34010	86995	39901	26448	13884
Mean	61.545	60.129	65.928	78.444	62.415	92.936

Notes: This table presents estimates of discontinuities in sentence length as Republican DA voteshare exceeds 0.5, separated into pre and post-2005 periods. Sentencing data is obtained from the National Corrections Reporting Program, while voteshare data is collected from secretary of state and state board of election websites. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Regressions control for total population as well as proportion of White and male population at the county level, as well as offender age and an indicator for multiple offense charges. Standard errors are clustered at the county level. Robust 95% confidence intervals in parentheses. * p < 0.1, ** p < 0.05, *** p < 0.01.

5 Conclusion

This paper explores the impact of chief prosecutor political affiliation on sentencing outcomes in the state criminal justice system. Linking just under 600,000 convicted defendants to their elected District Attorneys, I use quasi-experimental variation generated by close elections to show that Republican DAs do not affect the number of individuals sentenced to prison at the county level, but sentence defendants to longer prison terms compared to their Democratic and Independent counterparts. This translates into a persistent increase in incarceration well after DAs' time in office. This increase in sentence length does not lead to overall crime deterrence, as arrest rates remain unchanged for a broad range of offense categories. Further, this increase in sentence length dissipates in the period following *Blakely v. Washington 2004*, consistent with judges in state courts gaining more discretion and limiting prosecutors' ability to affect eventual sentencing outcomes.

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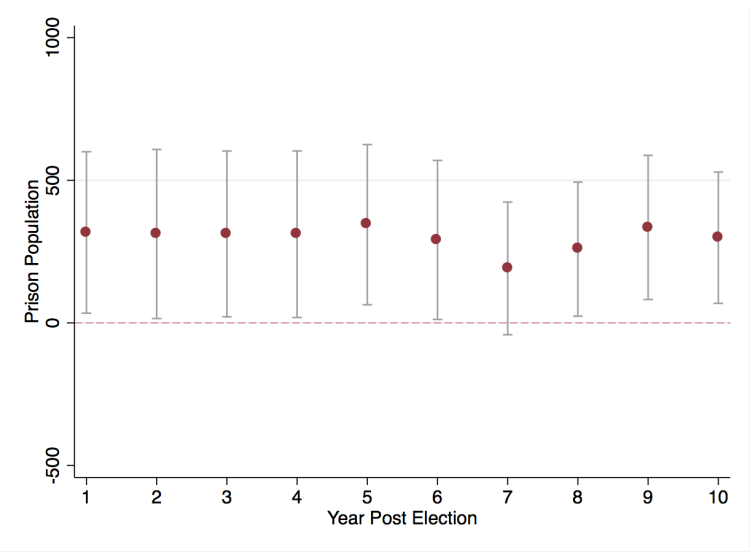
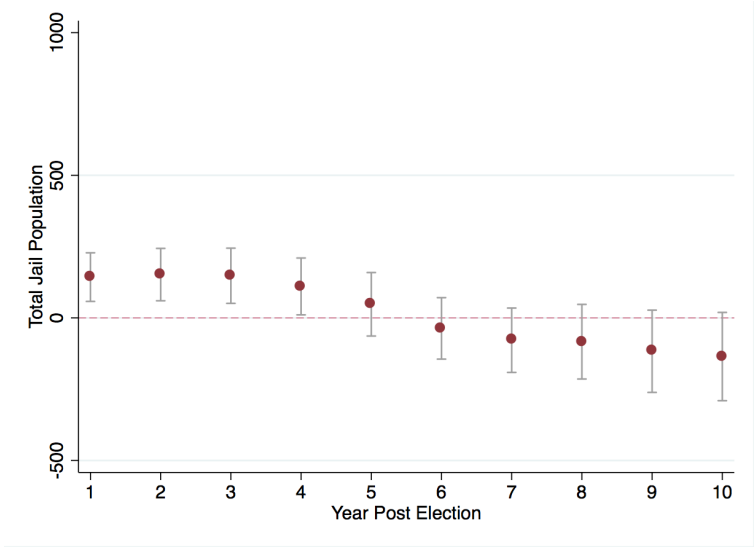
FIGURE 6: DISCONTINUITIES IN INCARCERATION OUTCOMES

(A) PRISON



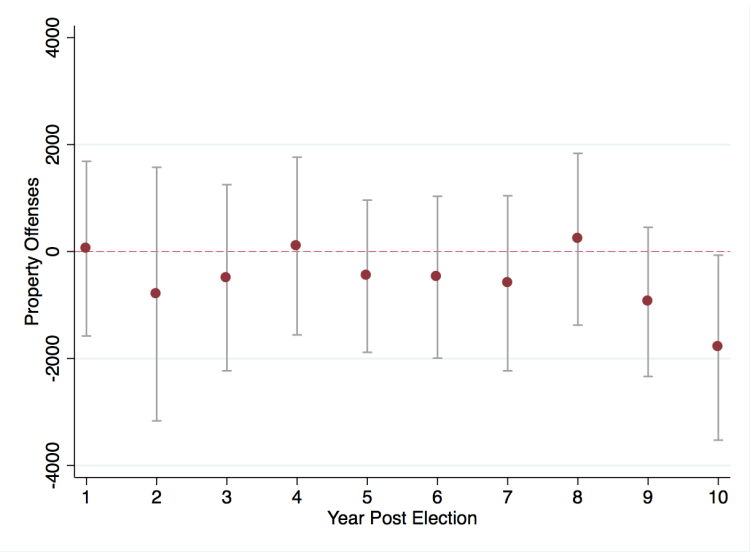
(B) JAIL



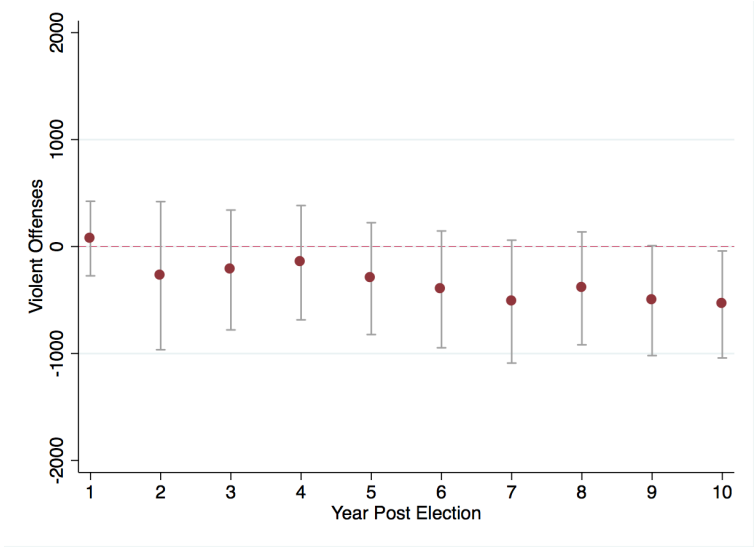
Notes: These figures display the effect of a Republican District Attorney on incarcerated populations at the county level for up to ten years after the DA first occupies office. Bias-corrected point estimates as well as 90% confidence intervals are based on the specification followed in Table 6. Prison and jail population is obtained from the Incarceration Trends dataset, while voteshare data is collected from secretary of state and state board of election websites.

FIGURE 7: DISCONTINUITIES IN CRIME OUTCOMES

(A) PROPERTY CRIME



(B) VIOLENT CRIME



Notes: These figures display the effect of a Republican District Attorney on incarcerated populations at the county level for up to ten years after the DA first occupies office. Bias-corrected point estimates as well as 90% confidence intervals are based on the specification followed in Table 6. Violent and property offense data is obtained from the Uniform Crime Reports, while voteshare data is collected from secretary of state and state board of election websites.

TABLE A.1: STATES WITH COMPETITIVE DA ELECTIONS BY YEAR

State/Year	2014	2012	2010	2008	2006	2004	2002	2000	1998	1996	1994	1992	1990	1988	1986	1984	1982
Alabama			X			X											
Arkansas			X		X		X		X				X		X		
Colorado		X		X		X		X		X		X		X		X	
Delaware	X		X		X		X		X		X		X		X		X
Florida		X		X		X		X		X		X		X		X	
Georgia		X	X	X	X	X	X	X	X	X							
Idaho		X		X		X		X		X							
Indiana	X		X		X		X										
Kentucky	X	X	X		X			X			1993			1987			1981
Louisiana	X				2005		X			X			X				
Maine	X	X	X														
Maryland	X		X		X		X		X								
Massachusetts	X		X				X		X	X	X		X		X		X
Mississippi		2011		2007		2003											
Montana	X	X															
Nevada	X	X			X		X										
New Hampshire	X	X	X	X	X		X	X									
New Mexico	X	X		X		X		X		X		X	X				
North Carolina	X		X		X		X		X								
Ohio		X		X													
Oklahoma	X		X		X		X		X		X						
Oregon	X	X	X	X	X	X											
Rhode Island	X		X		X		X		X		X		X		X		X
Texas	X	X	X	X	X	X	X	X	X	X	X	X					
Virginia	X	X	X	X	X	X	X	X									
Wisconsin		X		X		X		X									

Notes: This table indicates which states and years had District Attorney elections with at least two candidates in the general elections. Data is collected from secretary of state and state board of election websites. When the election year differs from the column title, it is mentioned explicitly.

Appendix

TABLE A.2: SUMMARY STATISTICS: OFFENDER AND SENTENCE CHARACTERISTICS

Characteristic	Mean	SD	N
Offender Characteristics			
Male	0.891	0.311	564,985
White	0.416	0.493	564,985
Black	0.476	0.499	564,985
Age	32.744	10.122	563,847
Multiple Offenses	0.381	0.486	564,985
Prior Felony Incarceration	0.033	0.18	564,985
Life Sentence	0.0004	0.02	564,985
Sentence Length by Offender Characteristic			
All (< Life Sentence)	65.486	73.479	560,552
Male	67.694	75.224	499,397
Female	47.487	54.016	61,079
White	62.204	69.774	233,675
Black	65.902	75.999	266,892
Multiple Offenses	69.421	75.915	213,178
Prior Felony Incarceration	74.488	69.892	18714
Sentence Length by Primary Offense			
Murder	149.192	128.851	13,724
Rape	137.837	110.198	6,168
Other Sexual Assault	130.733	105.295	10,105
Lewd Act with Children	81.858	70.754	8,533
Armed Robbery	110.448	92.058	33,927
Unarmed Robbery	79.578	79.979	10,007
Aggravated Assault	61.737	63.741	37,322
Burglary	71.326	73.448	73,874
Auto Theft	45.163	43.283	10,395
Forgery, Fraud	45.364	53.078	24,294
Grand Larceny	50.151	51.837	15,831
Other Larceny	40.482	51.32	28,977
Receiving Stolen Property	50.452	54.137	7,881
Unauth. Use of a Vehicle	61.178	78.612	5,654
Trafficking - Controlled Subs.	64.820	65.869	29,359
Trafficking - Unspec. Subs.	63.098	65.501	21,660
Possess - Cocaine/Crack	54.603	71.623	7,577
Possess - Controlled Subs.	55.806	61.878	23,420
Possess - Unspec. Subs.	44.272	52.696	16,628
Unspec. Offense - Controlled Subs.	83.336	77.39	5,424
Drug Offenses - Unspec.	47.843	51.115	39,302
Weapon Offenses	50.74	52.604	12,716
Minor Traffic	20.515	24.384	6,059
Driving While Intoxicated	41.262	37.116	17,884
Obstr. - Law Enforcement	35.793	40.424	6,840

Notes: This table summarizes offender and sentence characteristics based on data from National Corrections Reporting Program, for county-year pairs in which District Attorney elections were competitive (details in Table A.1).

TABLE A.3: DISCONTINUITIES IN THE NUMBER OF SENTENCES BY OFFENSE TYPE

	Murder	Forcible Rape	Other Sexual Assault	Lewd Act with Children	Armed Robbery	Unarmed Robbery	Agg. Assault
Republican DA	8.575	-5.037*	7.527*	-2.619	5.678	-13.492**	-4.293
	(7.290)	(2.816)	(4.294)	(3.320)	(10.692)	(6.136)	(11.179)
Bandwidth	0.094	0.068	0.072	0.055	0.080	0.043	0.084
Mean	7.707	2.509	4.758	3.965	13.626	4.649	15.425
	Burglary	Auto Theft	Forgery Fraud	Grand Larceny	Larceny - Value Unknown	Receiving Stolen Property	
Republican DA	-14.188	-15.297	-4.558	-20.717*	8.899	-15.997**	
	(24.100)	(10.160)	(7.688)	(10.815)	(13.358)	(7.074)	
Bandwidth	0.062	0.060	0.056	0.046	0.077	0.043	
Mean	31.487	4.198	11.782	7.448	11.384	4.112	
	Unauth. Use of a Vehicle	Trafficking - Controlled Subs.	Trafficking - Unspec. Subs.	Possess - Cocaine/Crack	Possess - Controlled Subs.	Possess - Unspec. Subs.	
Republican DA	6.362	-54.809	-3.635	2.351	-21.756*	0.935	
	(4.629)	(35.107)	(4.634)	(3.064)	(12.780)	(4.569)	
Bandwidth	0.067	0.049	0.061	0.055	0.046	0.058	
Mean	2.655	12.994	8.094	3.510	9.193	7.170	
	Unspec. Offense - Controlled Subs.	Drug Offenses - Unspec.	Weapon Offenses	Minor Traffic	Driving While Intoxicated	Obstr. - Law Enforcement	
Republican DA	0.999	53.767*	-8.458	-3.689*	3.561	-1.871	
	(10.239)	(32.633)	(5.870)	(1.924)	(4.558)	(2.524)	
Bandwidth	0.064	0.067	0.058	0.068	0.065	0.068	
Mean	2.381	21.315	5.209	2.867	7.382	3.288	

Notes: This table presents estimates of discontinuities in the number of prison sentences by offense type as Republican DA voteshare exceeds 0.5. Sentencing data is obtained from the National Corrections Reporting Program (2018), while voteshare data is collected from secretary of state and state board of election websites. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Regressions control for total population as well as proportion of White and male population at the county level. Standard errors are clustered at the county level. Robust standard errors in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$.

TABLE A.4: DISCONTINUITIES IN SENTENCE LENGTH BY OFFENSE TYPE

	Murder	Forcible Rape	Other Sexual Assault	Lewd Act with Children	Armed Robbery	Unarmed Robbery	Agg. Assault
Republican DA	-27.904	119.949***	36.303	6.501	45.420***	32.237	-0.747
	(47.159)	(30.522)	(23.623)	(10.138)	(17.432)	(24.549)	(9.967)
Bandwidth	0.028	0.031	0.059	0.042	0.028	0.047	0.061
Mean	170.944	156.731	146.603	79.459	124.355	85.105	63.625
	Burglary	Auto Theft	Forgery / Fraud	Grand Larceny	Larceny - Value Unknown	Receiving Stolen Property	
Republican DA	34.335***	66.316**	8.498	23.766***	-31.194	35.667***	
	(12.887)	(28.369)	(17.053)	(6.185)	(29.080)	(6.187)	
Bandwidth	0.027	0.019	0.036	0.033	0.038	0.025	
Mean	80.328	51.731	44.066	45.507	36.971	43.568	
	Unauth. Use of a Vehicle	Trafficking - Controlled Subs.	Trafficking - Unspec. Subs.	Possess - Cocaine/Crack	Possess - Controlled Subs.	Possess - Unspec. Subs.	
Republican DA	13.164	72.323	14.120	-93.251**	67.139**	15.661	
	(18.725)	(64.427)	(20.994)	(47.001)	(27.152)	(18.718)	
Bandwidth	0.023	0.017	0.034	0.018	0.020	0.034	
Mean	70.864	66.457	70.589	154.845	69.924	44.880	
	Unspec. Offense - Controlled Subs.	Drug Offenses - Unspec.	Weapon Offenses	Minor Traffic	Driving While Intoxicated	Obstr. - Law Enforcement	
Republican DA	-7.087***	11.850	-9.765	-2.771	-11.706	-13.809	
	(2.142)	(7.833)	(18.304)	(14.385)	(10.240)	(10.011)	
Bandwidth	0.028	0.036	0.038	0.043	0.069	0.024	
Mean	64.703	49.177	50.424	19.731	42.065	33.647	

Notes: This table presents estimates of discontinuities in the length of prison sentences by offense type as Republican DA voteshare exceeds 0.5. Sentencing data is obtained from the National Corrections Reporting Program, while voteshare data is collected from secretary of state and state board of election websites. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Regressions control for total population as well as proportion of White and male population at the county level, as well as offender age, prior felony incarceration, multiple offense charges, and indicators for the most common offense charges. Standard errors are clustered at the county level. Robust standard errors in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$.

TABLE A.5: DISCONTINUITIES IN ARRESTS BY OFFENSE TYPE

	Murder	Rape	Robbery	Aggravated Assault
Republican DA	3.587*	-37.554***	122.693*	-351.428
	[-.111, 7.285]	[-63.196, -11.912]	[-10.414, 255.8]	[-843.731, 140.874]
Bandwidth	0.030	0.034	0.032	0.050
N	1493	1666	1637	2646
Mean	5.889	45.366	195.324	514.146
	Burglary	Larceny	Motor Vehicle Theft	Arson
Republican DA	89.987	-407.484	-11.342	4.445
	[-253.275, 433.25]	[-1535.912, 720.945]	[-483.622, 460.938]	[-21.791, 30.681]
Bandwidth	0.041	0.040	0.035	0.042
N	2091	2006	1706	2119
Mean	1285.516	3554.860	560.266	33.209

Notes: This table presents estimates of discontinuities in arrests by offense type as Republican DA voteshare exceeds 0.5. Sentencing data is obtained from the Uniform Crime Reports (included in the Incarceration Trends dataset), while voteshare data is collected from secretary of state and state board of election websites. Local-polynomial regression-discontinuity point estimates are bias-corrected and rely on a triangular kernel. Regressions control for total population as well as proportion of White and male population at the county level. Standard errors are clustered at the county level. Robust 95% confidence intervals in parentheses. * $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$.