

Appendix to Why Do States Privatize their Prisons? The Unintended Consequences of Inmate Litigation

Anna Gunderson

Contents

1	Appendix to OLS Model	3
1.1	Alternative Dependent Variables: Proportion Inmates that are Private and Sum State Private Facilities	3
1.2	Robustness Checks: Shor and McCarty (2011) Ideology and Percent Public Workforce that is Unionized	5
2	Data Appendix	7
2.1	Data Collection	7
2.2	Maps of Data	9
3	Instrumental Variables Appendix	14
3.1	Alternative Dependent Variables for Hypothesis 1: Proportion Inmates that are Private, Sum State Private Facilities, Sum All Private Facilities (State, Local, and Federal)	14
3.2	Alternative Operationalizations and Description of Instrumental Variable . .	16
3.3	Robustness Checks: Adding Population as a Control	20
3.4	Alternative Independent Variable for Hypothesis 1: Logged Sum of All Lawsuits	22
3.5	Weighting the Dependent Variables	24

List of Figures

1	Number of inmates held in private facilities, 1986 to 2016.	10
2	Proportion of inmates held in private facilities, 1986 to 2016.	11
3	Logged number of private facilities in each state (including federal and local facilities), 1986 to 2016.	12
4	Number of private facilities in each state (including federal and local facilities), 1986 to 2016.	13

List of Tables

1	OLS Model of Proportion of Corrections System that is Private	3
2	OLS Model of Sum State Private Facilities	4
3	OLS Model of Level of Prison Privatization Adding Shor and McCarty (2011) Legislative Ideology	5
4	OLS Model of Level of Prison Privatization Adding State Public Union Membership	6
5	Hypothesis 1: Lagged Proportion in Private Facilities	14
6	Hypothesis 1: Lagged Sum Private Facilities - State Only	15
7	Hypothesis 1: Lagged Sum Private Facilities - All Included	15
8	Hypothesis 1: Lagged Private Design Capacity using Weighted Cases per Authorized Judge Serving	16
9	Hypothesis 1: Lagged Proportion in Private Facilities using Weighted Cases per Authorized Judge Serving	17
10	Hypothesis 1: Lagged Sum Private Facilities - State Only using Weighted Cases per Authorized Judge Serving	17
11	Hypothesis 1: Lagged Private Design Capacity using Weighted Cases per Judge Serving (Excluding Senior Status)	18
12	Hypothesis 1: Lagged Proportion in Private Facilities using Weighted Cases per Judge Serving (Excluding Senior Status)	19
13	Hypothesis 1: Lagged Sum Private Facilities - State Only using Weighted Cases per Judge Serving (Excluding Senior Status)	19
14	Hypothesis 1: Lagged Private Design Capacity with Population	20
15	Hypothesis 1: Lagged Proportion in Private Facilities with Population	21
16	Hypothesis 1: Lagged Sum Private Facilities - State Only with Population	21
17	Hypothesis 1: Lagged Private Design Capacity - Logged Sum Lawsuits	22
18	Hypothesis 1: Lagged Proportion in Private Facilities with Logged Sum Lawsuits	23
19	Hypothesis 1: Lagged Sum Private Facilities - State Only - Logged Sum Lawsuits	23
20	Hypothesis 1: Lagged Private Design Capacity (Weighted)	24
21	Hypothesis 1: Lagged Proportion in Private Facilities (Weighted)	25

1 Appendix to OLS Model

In addition to the model presented in the paper, which analyzes how the politics, economics, and unionization variables affect the growth of prison privatization, I estimate an additional two dependent variables: *Proportion in Private Facilities* and *Sum State Facilities*. These two variables come from my original dataset and represent the proportion of all inmates under a state's jurisdiction that is private and the number of private facilities within a state's borders that holds state inmates, respectively. The results are in Tables 1 and 2.

1.1 Alternative Dependent Variables: Proportion Inmates that are Private and Sum State Private Facilities

Table 1: OLS Model of Proportion of Corrections System that is Private

	Prop. in Private Facilities
Sum Lawsuits	0.00003*** (0.00001)
Republican Legislature	-0.003 (0.014)
Republican Governor	0.018* (0.011)
Unified Rep. Gov't	-0.006 (0.016)
Budget Gap Per Capita	-0.038 (0.027)
# Unionized Corrections Officers (Thousands)	-0.004** (0.002)
Incarceration Rate	0.0001 (0.0001)
Violent Crime Rate	0.0001 (0.0001)
N	1,417
State Fixed Effects	✓
Year Fixed Effects	✓
R ²	0.564
Adjusted R ²	0.537
Residual Std. Error	0.064 (df = 1332)

*p < .1; **p < .05; ***p < .01
SE's clustered by state.

Table 2: OLS Model of Sum State Private Facilities

	Sum of State Private Facilities
Sum Lawsuits	0.001*** (0.0004)
Republican Legislature	-0.221 (0.171)
Republican Governor	-0.034 (0.106)
Unified Rep. Gov't	0.169 (0.202)
Budget Gap Per Capita	0.137 (0.408)
# Unionized Corrections Officers (Thousands)	0.251* (0.151)
Incarceration Rate	0.009*** (0.002)
Violent Crime Rate	-0.002* (0.001)
N	1,417
State Fixed Effects	✓
Year Fixed Effects	✓
R ²	0.859
Adjusted R ²	0.850
Residual Std. Error	0.996 (df = 1332)

*p < .1; **p < .05; ***p < .01
SE's clustered by state.

1.2 Robustness Checks: Shor and McCarty (2011) Ideology and Percent Public Workforce that is Unionized

I estimate the OLS model shown in the paper using Shor and McCarty (2011)'s measure of legislative ideology to reflect the more fine-grained reality of ideology within state legislatures. I averaged the House and Senate chamber's ideology to calculate *Legislative Ideology*, a holistic measure of the legislature's ideology. The results of this estimation are in Table 3.

Table 3: OLS Model of Level of Prison Privatization Adding Shor and McCarty (2011) Legislative Ideology

	Private Design Capacity
Sum Lawsuits	1.210** (0.531)
Legislative Ideology (Shor and McCarty)	-15.067 (264.768)
Republican Governor	298.487* (152.965)
Rep. Gov * Leg. Ideology	8.680 (247.861)
Budget Gap Per Capita	968.868 (609.969)
# Unionized Corrections Officers (Thousands)	102.181 (180.859)
Incarceration Rate	3.983 (3.498)
Violent Crime Rate	-5.085** (2.333)
N	938
State Fixed Effects	✓
Year Fixed Effects	✓
R ²	0.828
Adjusted R ²	0.813
Residual Std. Error	1,166.667 (df = 859)

*p < .1; **p < .05; ***p < .01
SE's clustered by state.

Finally, I replace the proxy, *Number of Unionized Corrections Officers (Thousands)* with *Percent Public Workforce that are Union Members* in Table 4. This variable, from Hirsch and Macpherson (2003), measures the percent of the entire state's public workforce that is unionized.

Table 4: OLS Model of Level of Prison Privatization Adding State Public Union Membership

	Private Design Capacity
Sum Lawsuits	1.655*** (0.491)
Republican Legislature	288.578 (291.903)
Republican Governor	144.147 (144.110)
Unified Rep. Gov't	89.345 (335.363)
Budget Gap Per Capita	447.048 (608.755)
% Public Workforce that are Union Members	19.514 (21.277)
Incarceration Rate	9.235*** (2.698)
Violent Crime Rate	-3.602** (1.648)
N	1,417
State Fixed Effects	✓
Year Fixed Effects	✓
R ²	0.744
Adjusted R ²	0.728
Residual Std. Error	1,221.843 (df = 1332)

*p < .1; **p < .05; ***p < .01
SE's clustered by state.

2 Data Appendix

2.1 Data Collection

All variables gleaned directly from 10-K reports filed by private prison companies. All information is taken from there. This dataset includes private facilities operated by both the federal and state government, along with county jails. I do not include community corrections facilities (residential facilities) operated by these companies. I do include juvenile facilities if the purpose is listed as correctional (I.e. they are incarcerated), but do not include those juvenile facilities that are simply treatment centers. Importantly, this choice deviates from the Bureau of Justice Statistics' variable of the number of inmates in private facilities, as the BJS number includes inmates housed in privately-operated correctional facilities including any privately-operated halfway houses, treatment facilities, hospitals, or other special facilities and excludes inmates housed in any publicly-operated facility, even if under contract. BJS data also does not include prisoners under federal jurisdiction. This dataset covers the private jail or prison facilities, at either the local, state, or federal level, in each state-year.

The following indicates the coverage of the data.

SEC 10-K's available:

- Corrections Corporation of America (now CoreCivic): 1986 - Present
- Cornell Companies: 1997 - 2010
 - Cornell acquired by GEO Group in 2010
- Correctional Services Corporation (also known as Esmor Correctional Corporation): 1998-2005
 - CSC acquired by GEO Group in 2005
- GEO Group (formerly Wackenhut Corrections): 1996-2016
 - 10-K's available for Wackenhut prior to 1996, but there is no capacity data, only location data available

Data availability:

- Corrections Corporation of America
 - Facility names and capacity: 1986 - Present
 - The SEC data contains the locations of the facilities. Though the early 10-K's do not list the names of those facilities, I used their later properties to label the facilities with their probable names.
 - Primary customer explicitly listed: 1996 - Present
- Cornell Companies
 - Names of facilities, capacity, and primary customer: 1996-2009
 - Correctional Services Corporation (also known as Esmor Correctional Corporation)
 - Names of facilities, capacity, and primary customer: 1997-2004
- GEO Group (formerly Wackenhut Corrections)
 - Facility names: 1989 - Present
 - Like Corrections Corporation of America, the SEC data for Wackenhut only contained the locations of the facilities they operated. Using the names and locations

of the properties they operate at later dates, I labeled the properties with their probable names.

- Capacity: 1996 - Present
- Primary customer explicitly listed: 1996 - Present

Missing data (as of February 2018)

- Corrections Corporation of America 10-K for fiscal year ending 1993
- CSC 10-K for fiscal years ending 1994-1997

While waiting for the missing data, I inputted the following information:

- CCA 1993 is inputted from the CCA 1992 variables
- Wackenhut 1991 is inputted from Wackenhut 1990
- Because so many years are missing from CSC, I simply omitted the years I was missing

Note: For Cornell Companies and the Correctional Services Corporation, I only listed the Adult Secure Services Facilities: Residential Facilities, not community corrections facilities.

Note: The data for Corrections Corporation of America in 1999 is spotty given its conversion to Prison Realty Trust, an attempt to change the company into a real estate investment trust (REIT). The data in that year lists capacity and other variables as normal, but does not list the primary customer of the facility. As such, I inputted the primary customer as according to previous and future years: if the facility had one operator in 1998 and 2000, I inputted that operator for 1999 as well. If the facility was opened in 1999, I listed the 2000 operator as the primary customer for 1999. If the facility does not exist past 2000, I listed the 1998 customer for 1999. If there was disagreement in the customers in 1998 and 2000, I only listed the customers that were in both years. If there was complete disagreement in the customers in 1998 and 2000, I left the primary customer blank. If the facility listed no customer for 1998 but one for 2000, I listed the customer from 2000 for the 1999 value.

Finally, some facilities CCA owned and operated in both 1998 and 2000 are missing for some reason in the 1999 filing. Because it is highly unlikely the operation of the facility changed back and forth from some other private contractor or the state in a span of one year, I inputted the 1998 data for 1999, providing the design capacity number was the same.

2.2 Maps of Data

The maps in Figures 1, 2, 3, and 4 below convey the distribution of alternative variables that measure prison privatization: the proportion of inmates held in private facilities and the logged number of state and federal private facilities.

Number of Private Facilities, 1986 – 2016

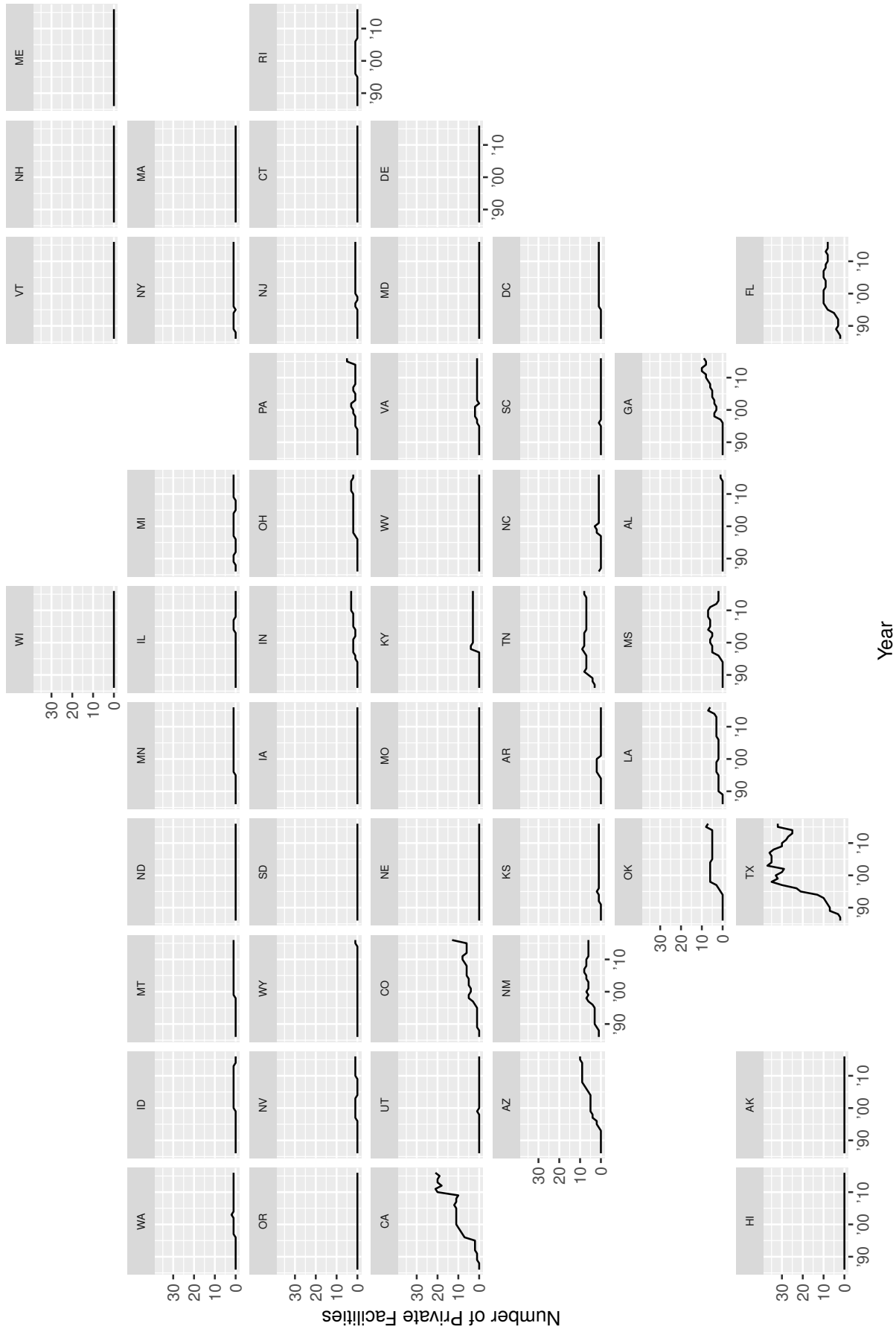


Figure 4: Number of private facilities in each state (including federal and local facilities), 1986 to 2016.

3 Instrumental Variables Appendix

3.1 Alternative Dependent Variables for Hypothesis 1: Proportion Inmates that are Private, Sum State Private Facilities, Sum All Private Facilities (State, Local, and Federal)

Tables 5, 6, and 7 below show the same analyses as those in the paper, using proportion of inmates in private facilities, the sum of state-only private facilities, and the sum of all private facilities (operated by local, federal, or state authorities) as alternative dependent variables for Hypothesis 1.

Table 5: Hypothesis 1: Lagged Proportion in Private Facilities

	<i>Dependent variable:</i>		
	Lagged Prop. in Private - <i>OLS</i>	Sum Lawsuits <i>First Stage IV</i>	Lagged Prop. in Private - <i>IV</i>
	(1)	(2)	(3)
Sum Lawsuits	-0.00001* (0.00001)		-0.00002 (0.0001)
Weight per Judge Serving		1.070** (0.430)	
Constant	-0.038*** (0.012)	-143.289 (172.193)	-0.038** (0.017)
N	1,581	1,400	1,400
Residual Std. Error	0.080 (df = 1539)	525.071 (df = 1361)	0.080 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓
F-Statistic		19.0337	

*p < .1; **p < .05; ***p < .01

All models have se's clustered by circuit.

Table 6: Hypothesis 1: Lagged Sum Private Facilities - State Only

	<i>Dependent variable:</i>		
	Lagged Sum Facilities <i>OLS</i>	First Stage IV <i>First Stage IV</i>	Lagged Sum Facilities <i>IV</i>
	(1)	(2)	(3)
Sum Lawsuits	0.002** (0.001)		0.003** (0.001)
Weight per Judge Serving		1.070** (0.430)	
Constant	-1.290** (0.528)	-143.289 (172.193)	-1.602** (0.654)
N	1,581	1,400	1,400
Residual Std. Error	1.714 (df = 1539)	525.071 (df = 1361)	1.885 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓
F-Statistic		19.0337	

*p < .1; **p < .05; ***p < .01
All models have se's clustered by circuit.

Table 7: Hypothesis 1: Lagged Sum Private Facilities - All Included

	Lagged Sum Facilities <i>OLS</i>	First Stage IV <i>First Stage IV</i>	Lagged Sum Facilities <i>IV</i>
	(1)	(2)	(3)
	Sum Lawsuits	0.004*** (0.001)	
Weight per Judge Serving		1.070** (0.430)	
Constant	-2.335*** (0.886)	-143.289 (172.193)	-2.814** (1.111)
N	1,550	1,400	1,400
Residual Std. Error	3.037 (df = 1508)	525.071 (df = 1361)	3.273 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

3.2 Alternative Operationalizations and Description of Instrumental Variable

Habel and Scott (2014) provide a wealth of data on the number of judges serving, both active and senior status, and the number of case filings each district sees. In the paper, the main variable I use is *Weight per Judge Serving*, which divides weighted case filings by the number of active and senior judges in each district-year. Weighted case filings are calculated by the Federal Judicial Center and account for the varying lengths of time different categories of cases take to adjudicate. Additionally, Habel and Scott (2014) scour judge biographies and histories to gather a count of judges serving in each district-year, with active, regular judges counting as 1 (provided they served the whole year) and senior judges counting as 0.25 due to their decreased caseload. This calculation is particularly important as vacancies on districts are extremely common, whether due to a not-yet filled nomination, illness, or other, so the total number of judgeships a district has may not be close in reality to the number of judges who actually hear cases.

Then, I aggregate this variable to the state level, so for a state like Alabama with three district courts, I add up all the weighted case filings for those courts and divide by the total number of judges serving.

Now, I try out two alternative variables to *Weighted Cases per Judge Serving*. First, I divide weighted case filings by the number of authorized judgeships only. These results are in Tables 8, 9, and 10.

Table 8: Hypothesis 1: Lagged Private Design Capacity using Weighted Cases per Authorized Judge Serving

	Lagged Private DC OLS (1)	Sum Court Orders First Stage IV (2)	Lagged Private DC IV (3)
Sum Lawsuits	1.609*** (0.470)		2.011*** (0.773)
Weight per Authorized Judge Serving		1.042** (0.465)	
Constant	-1,285.487*** (416.376)	-110.994 (171.072)	-1,355.883*** (484.067)
N	1,550	1,400	1,400
Residual Std. Error	1,667.933 (df = 1508)	526.397 (df = 1361)	1,648.248 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 9: Hypothesis 1: Lagged Proportion in Private Facilities using Weighted Cases per Authorized Judge Serving

	Lagged Prop. in Private OLS (1)	Sum Court Orders First Stage IV (2)	Lagged Prop. in Private IV (3)
Sum Lawsuits	-0.00001* (0.00001)		0.00000 (0.00003)
Weight per Authorized Judge Serving		0.211 (0.146)	
Constant	-0.039*** (0.012)	8.651 (80.105)	-0.038 (0.026)
N	1,550	1,400	1,400
Residual Std. Error	0.081 (df = 1508)	310.579 (df = 1360)	0.079 (df = 1360)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 10: Hypothesis 1: Lagged Sum Private Facilities - State Only using Weighted Cases per Authorized Judge Serving

	Lagged Sum Facilities OLS (1)	Sum Court Orders First Stage IV (2)	Lagged Sum Facilities IV (3)
Sum Lawsuits	0.002** (0.001)		0.003** (0.001)
Weight per Authorized Judge Serving		1.042** (0.465)	
Constant	-1.307** (0.538)	-110.994 (171.072)	-1.579** (0.640)
N	1,550	1,400	1,400
Residual Std. Error	1.725 (df = 1508)	526.397 (df = 1361)	1.862 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Second, I divide weighted case filings by the number of judges serving but excluding senior status judges. These results are in Tables 11, 12, and 13.

Table 11: Hypothesis 1: Lagged Private Design Capacity using Weighted Cases per Judge Serving (Excluding Senior Status)

	Lagged Private DC OLS (1)	Sum Court Orders First Stage IV (2)	Lagged Private DC IV (3)
Sum Lawsuits	1.609*** (0.470)		1.917** (0.755)
Weight per Judge Serving (No SS)		0.779*** (0.273)	
Constant	-1,285.487*** (416.376)	-64.686 (131.359)	-1,336.529*** (477.715)
N	1,550	1,400	1,400
Residual Std. Error	1,667.933 (df = 1508)	530.005 (df = 1361)	1,641.474 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 12: Hypothesis 1: Lagged Proportion in Private Facilities using Weighted Cases per Judge Serving (Excluding Senior Status)

	Lagged Prop. in Private OLS (1)	Sum Court Orders First Stage IV (2)	Lagged Prop. in Private IV (3)
Sum Lawsuits	-0.00001* (0.00001)		-0.0001 (0.0003)
Weight per Judge Serving (No SS)		0.152* (0.081)	
Constant	-0.039*** (0.012)	19.840 (71.387)	-0.033 (0.027)
N	1,550	1,400	1,400
Residual Std. Error	0.081 (df = 1508)	310.885 (df = 1360)	0.083 (df = 1360)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 13: Hypothesis 1: Lagged Sum Private Facilities - State Only using Weighted Cases per Judge Serving (Excluding Senior Status)

	Lagged Sum Facilities OLS (1)	Sum Court Orders First Stage IV (2)	Lagged Sum Facilities IV (3)
Sum Lawsuits	0.002** (0.001)		0.003** (0.001)
Weight per Judge Serving (No SS)		0.779*** (0.273)	
Constant	-1.307** (0.538)	-64.686 (131.359)	-1.570** (0.631)
N	1,550	1,400	1,400
Residual Std. Error	1.725 (df = 1508)	530.005 (df = 1361)	1.854 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

3.3 Robustness Checks: Adding Population as a Control

Tables 14, 15, and 16 below are the estimations used in the paper, along with the alternative dependent variables, with population added as a control variable.

Table 14: Hypothesis 1: Lagged Private Design Capacity with Population

	Lagged Private DC <i>OLS</i>	Sum Lawsuits <i>First Stage IV</i>	Lagged Private DC <i>IV</i>
	(1)	(2)	(3)
Sum Lawsuits	1.118** (0.564)		3.336 (2.693)
Population	0.0001 (0.00005)	0.0001*** (0.00000)	-0.0001 (0.0002)
Weight per Judge Serving		0.212* (0.122)	
Constant	-1,278.331*** (400.372)	3.902 (79.694)	-1,424.533** (593.014)
N	1,550	1,400	1,400
Residual Std. Error	1,656.935 (df = 1507)	310.563 (df = 1360)	1,770.965 (df = 1360)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 15: Hypothesis 1: Lagged Proportion in Private Facilities with Population

	Lagged Prop. in Private - <i>OLS</i>	Sum Court Orders <i>First Stage IV</i>	Lagged Prop. in Private - <i>IV</i>
	(1)	(2)	(3)
Sum Lawsuits	0.00001 (0.00001)		0.00003 (0.0003)
Population	-0.000*** (0.000)	0.0001*** (0.00000)	-0.000 (0.00000)
Weight per Judge Serving		0.212* (0.122)	
Constant	-0.039*** (0.012)	3.902 (79.694)	-0.040 (0.025)
N	1,550	1,400	1,400
Residual Std. Error	0.080 (df = 1507)	310.563 (df = 1360)	0.079 (df = 1360)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 16: Hypothesis 1: Lagged Sum Private Facilities - State Only with Population

	Lagged Sum Facilities - <i>OLS</i>	Sum Lawsuits <i>First Stage IV</i>	Lagged Sum Facilities - <i>IV</i>
	(1)	(2)	(3)
Sum Lawsuits	0.002* (0.001)		0.008 (0.006)
Population	0.00000 (0.00000)	0.0001*** (0.00000)	-0.00000 (0.00000)
Weight per Judge Serving		0.212* (0.122)	
Constant	-1.302** (0.530)	3.902 (79.694)	-1.808* (0.999)
N	1,550	1,400	1,400
Residual Std. Error	1.721 (df = 1507)	310.563 (df = 1360)	2.746 (df = 1360)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

3.4 Alternative Independent Variable for Hypothesis 1: Logged Sum of All Lawsuits

Tables 17, 18, and 19 use the logged sum of all prisoners' lawsuits as the main independent variable in place of the sum of all lawsuits.

Table 17: Hypothesis 1: Lagged Private Design Capacity - Logged Sum Lawsuits

	Lagged Private DC <i>OLS</i>	Logged Sum Lawsuits <i>First Stage IV</i>	Lagged Private DC <i>IV</i>
	(1)	(2)	(3)
Log Sum Lawsuits	446.839** (208.090)		734.948** (369.989)
Weight per Judge Serving		0.003** (0.001)	
Constant	-2,851.901** (1,135.925)	3.265*** (0.419)	-4,075.774** (1,855.379)
N	1,581	1,400	1,400
Residual Std. Error	1,813.377 (df = 1539)	1.000 (df = 1361)	1,810.564 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 18: Hypothesis 1: Lagged Proportion in Private Facilities with Logged Sum Lawsuits

	Lagged Prop. in Private - <i>OLS</i>	Sum Court Orders <i>First Stage IV</i>	Lagged Prop. in Private - <i>IV</i>
	(1)	(2)	(3)
Log Sum Lawsuits	-0.014 (0.009)		-0.007 (0.020)
Weight per Judge Serving		0.003** (0.001)	
Constant	0.018 (0.034)	3.265*** (0.419)	-0.011 (0.087)
N	1,581	1,400	1,400
Residual Std. Error	0.079 (df = 1539)	1.000 (df = 1361)	0.079 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 19: Hypothesis 1: Lagged Sum Private Facilities - State Only - Logged Sum Lawsuits

	Lagged Sum Facilities - <i>OLS</i>	Sum Lawsuits <i>First Stage IV</i>	Lagged Sum Facilities - <i>IV</i>
	(1)	(2)	(3)
Log Sum Lawsuits	0.531** (0.251)		1.153** (0.587)
Weight per Judge Serving		0.003** (0.001)	
Constant	-3.155** (1.359)	3.265*** (0.419)	-5.838** (2.818)
N	1,581	1,400	1,400
Residual Std. Error	1.922 (df = 1539)	1.000 (df = 1361)	2.069 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

3.5 Weighting the Dependent Variables

One may be concerned about the way I constructed the design capacity variable. Regarding facilities with prisoners from multiple states' correctional systems, I merely averaged the design capacity between the customers. However, it is likely possible that is not an accurate depiction of the distribution of inmates across jurisdictions. North Lake Correctional Facility, for example, has Vermont and Washington as its customers, but it is likely Vermont houses fewer inmates overall than Washington does, simply because the prison population of the former is smaller than the latter. To counteract this, I weighted the capacity variable via the following strategy: I found the total number of inmates under federal, state, or jail (i.e. local) jurisdiction for each year. Then, if a facility had multiple customers, I multiplied the total capacity by this share to get a more realistic representation of what proportion of the facility each jurisdiction would hold. If there were multiple customers of the same level (i.e. two cities or two states), I used a similar weighting scheme with their total prison or jail populations. I then recalculated *Private Design Capacity* according to this measure. The substantive results from the main paper do not change.

Tables 20 and 21 use the weighted versions of the design capacity variables. I estimated the following equation to weight these variables: $\gamma_{ja,t,c} = \frac{PrisonPop_{ja,t}}{PrisonPop_{ja,t} + PrisonPop_{jb,t}} * DesignCapacity_{t,c}$, where $\gamma_{ja,t,c}$ represents the design capacity of facility c for jurisdiction ja in time t , $PrisonPop_{ja,t}$ represents the prison population of jurisdiction a in time t , and $PrisonPop_{jb,t}$ represents the prison population of jurisdiction b in time t .

Table 20: Hypothesis 1: Lagged Private Design Capacity (Weighted)

	Lagged Private DC Weighted - <i>OLS</i> (1)	Sum Lawsuits <i>First Stage IV</i> (2)	Lagged Private DC Weighted - <i>IV</i> (3)
Sum Lawsuits	1.587*** (0.457)		1.984*** (0.725)
Weight per Judge Serving		1.070** (0.430)	
Constant	-1,237.382*** (401.231)	-143.289 (172.193)	-1,325.454*** (474.401)
N	1,581	1,400	1,400
Residual Std. Error	1,644.218 (df = 1539)	525.071 (df = 1361)	1,629.778 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.

Table 21: Hypothesis 1: Lagged Proportion in Private Facilities (Weighted)

	<i>Dependent variable:</i>		
	Lagged Prop. in Private (Weighted) - <i>OLS</i>	Sum Court Orders <i>First Stage IV</i>	Lagged Prop. in Private (Weighted) - <i>IV</i>
	(1)	(2)	(3)
Sum Lawsuits	-0.00001 (0.00001)		-0.00003 (0.00004)
Weight per Judge Serving		1.070** (0.430)	
Constant	-0.035*** (0.011)	-143.289 (172.193)	-0.032*** (0.012)
N	1,581	1,400	1,400
Residual Std. Error	0.074 (df = 1539)	525.071 (df = 1361)	0.075 (df = 1361)
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

*p < .1; **p < .05; ***p < .01

Note: All models have se's clustered by circuit.