

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

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1 Appendix to Common Explanations for Privatization

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
Republican Legislature	-0.005 (0.013)
Republican Governor	0.021* (0.011)
Budget Gap Per Capita	-0.016 (0.022)
# Unionized Corrections Officers (Thousands)	-0.002 (0.002)
Incarceration Rate	0.0002* (0.0001)
Violent Crime Rate	0.0001 (0.0001)
Unified Rep. Gov't	-0.010 (0.017)
N	1,417
R ²	0.550
Adjusted R ²	0.522
Residual Std. Error	0.064 (df = 1333)
State Fixed Effects	✓
Year Fixed Effects	✓

*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
Republican Legislature	-0.268 (0.197)
Republican Governor	0.053 (0.117)
Budget Gap Per Capita	0.163 (0.530)
# Unionized Corrections Officers (Thousands)	0.374* (0.198)
Incarceration Rate	0.009*** (0.003)
Violent Crime Rate	-0.003** (0.001)
Unified Rep. Gov't	0.154 (0.237)
N	1,417
R ²	0.837
Adjusted R ²	0.827
Residual Std. Error	1.058 (df = 1333)
State Fixed Effects	✓
Year Fixed Effects	✓

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

1.2 Alternative Model: Cox Proportional Hazards Model of First State Adoption of Private Prisons

The model presented in the paper is an estimate of the growth of prison privatization. I also estimate a Cox proportional hazards model in Table 3 to analyze which of the politics, unionization, or economics variables contribute to the likelihood a state privatizes for the first time.

Table 3: Cox Proportional Hazards Model of Prison Privatization Adoption

	<i>Dependent variable:</i>	
	Coefficient	Hazard Ratio
	(1)	(2)
Republican Legislature	0.118 (0.655)	1.126 (-0.159, 2.410)
Republican Governor	0.073 (0.412)	1.076 (0.269, 1.883)
Budget Gap Per Capita	0.671*** (0.322)	1.956 (1.325, 2.588)
# Unionized Corrections Officers (Thousands)	-0.006 (0.047)	0.994 (0.901, 1.087)
Violent Crime Rate	-0.00002 (0.001)	1.000 (0.998, 1.002)
Incarceration Rate	0.003 (0.002)	1.003 (0.999, 1.007)
Unified Rep. Gov't	-0.002 (0.855)	0.998 (-0.679, 2.674)
Observations	822	822
R ²	0.009	0.009
Max. Possible R ²	0.252	0.252
Log Likelihood	-115.769	-115.769
Wald Test (df = 7)	20.700***	20.700***
LR Test (df = 7)	7.487	7.487
Score (Logrank) Test (df = 7)	9.249	9.249

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

1.3 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 4.

Table 4: OLS Model of Level of Prison Privatization Adding Shor and McCarty (2011) Legislative Ideology

	Private Design Capacity
Legislative Ideology (Shor and McCarty)	-90.288 (329.288)
Republican Governor	235.390 (158.886)
Budget Gap Per Capita	1,169.609* (689.547)
# Unionized Corrections Officers (Thousands)	190.380 (236.191)
Incarceration Rate	4.239 (3.893)
Violent Crime Rate	-5.674** (2.665)
Rep. Gov * Leg. Ideology	33.620 (247.944)
N	938
R ²	0.818
Adjusted R ²	0.801
Residual Std. Error	1,177.976 (df = 860)
State Fixed Effects	✓
Year Fixed Effects	✓

*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 5. This variable, from Hirsch and Macpherson (2003), measures the percent of the entire state's public workforce that is unionized.

Table 5: OLS Model of Level of Prison Privatization Adding State Public Union Membership

	Private Design Capacity
Republican Legislature	225.580 (322.563)
Republican Governor	160.541 (151.829)
Budget Gap Per Capita	683.530 (707.094)
% Public Workforce that are Union Members	27.327 (25.905)
Incarceration Rate	10.137*** (3.629)
Violent Crime Rate	-4.097** (1.983)
Unified Rep. Gov't	40.073 (332.166)
N	1,417
R ²	0.708
Adjusted R ²	0.690
Residual Std. Error	1,271.235 (df = 1333)
State Fixed Effects	✓
Year Fixed Effects	✓

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

2 Appendix to Prisoners' Lawsuits and Private Prisons: An Empirical Analysis

2.1 Data Collection Description

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 con-

tained 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: Proportion Inmates that are Private and Sum State Private Facilities

The maps in Figures 1 and 2 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.

2.3 Distribution of Hypothesis 1 Instrumental Variable: Proportion Judges who were Prior Prosecutors

Figure 3 is a boxplot of the distribution of *Proportion Prior Prosecutor* within states with more than one district court, 1986 to 2016. This figure is useful at understanding whether the assumption of randomization is correct: within states that have more than one district court, is it the case that the distribution of the instrumental variable, the proportion of judges that are prior prosecutors, is significantly different across the district courts? West Virginia appears to have the most significant difference between their two district courts - the results do not change if I exclude all observations from that state.

Standard Deviation of Prop. Prosecutor in States with More than One District, 1986-2016

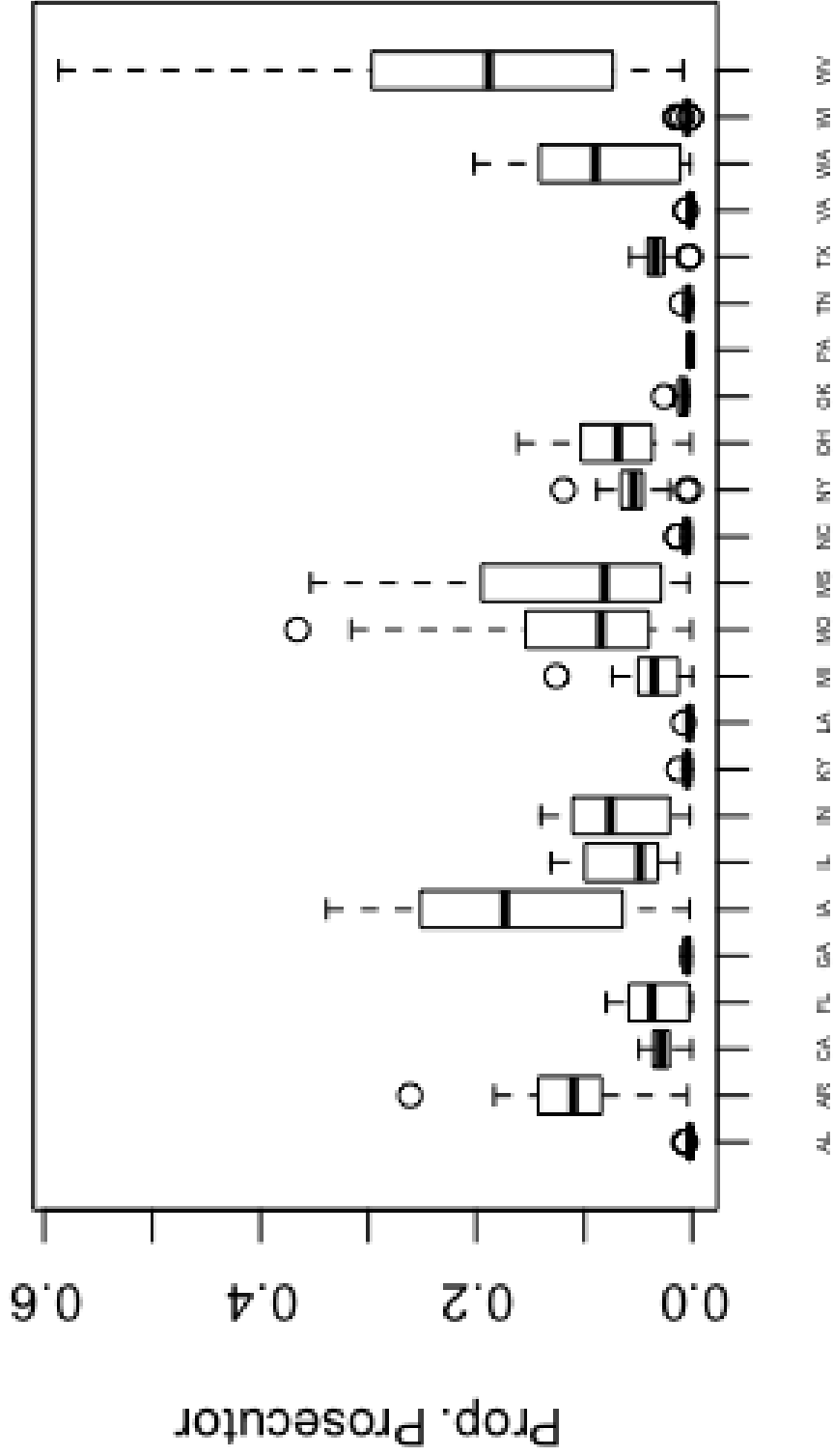


Figure 3: Standard deviation of Proportion Prior Prosecutor in states with more than one district court, 1986 to 2016.

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

Tables 6, 7, and 8 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 (either operated by state, local, or federal authorities) as alternative dependent variables for Hypothesis 1.

Table 6: Hypothesis 1: Lagged Proportion in Private Facilities

	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 Court Orders	-0.009* (0.005)		-0.122 (0.161)
Prop. Prior Prosecutor		0.692 (0.424)	
Constant	-0.041*** (0.012)	0.183*** (0.070)	-0.023 (0.032)
N	1,550	1,550	1,550
Residual Std. Error (df = 1508)	0.081	0.676	0.112
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓
F-Statistic		11.424	

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

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

Table 7: Hypothesis 1: Lagged Sum Private Facilities - State Only

	Lagged Sum Facilities - <i>OLS</i>	Sum Court Orders <i>First Stage IV</i>	Lagged Sum Facilities - <i>IV</i>
	(1)	(2)	(3)
Sum Court Orders	0.198 (0.213)		-4.435** (2.198)
Prop. Prior Prosecutor		0.692 (0.424)	
Constant	-0.934*** (0.338)	0.183*** (0.070)	-0.212 (0.664)
N	1,550	1,550	1,550
Residual Std. Error (df = 1508)	2.021	0.676	3.737
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓
F-Statistic		11.424	

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

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

Table 8: Hypothesis 1: Lagged Sum Private Facilities - All Included

	Lagged Sum Facilities - <i>OLS</i>	Sum Court Orders <i>First Stage IV</i>	Lagged Sum Facilities - <i>IV</i>
	(1)	(2)	(3)
Sum Court Orders	0.569 (0.502)		-8.982** (4.174)
Prop. Prior Prosecutor		0.692 (0.424)	
Constant	-1.614*** (0.551)	0.183*** (0.070)	-0.126 (1.199)
N	1,550	1,550	1,550
Residual Std. Error (df = 1508)	3.688	0.676	7.455
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

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

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

2.5 Alternative Dependent Variables for Hypothesis 2: Proportion Inmates that are Private, Sum State Private Facilities, Sum All Private Facilities (State, Local, and Federal)

Tables 9, 10, and 11 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 2.

Table 9: Hypothesis 2: 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 10: Hypothesis 2: 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 11: Hypothesis 2: 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.

2.6 Alternative Operationalizations and Description of Weighted Cases per Judge Serving

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 12, 13, and 14.

Table 12: Hypothesis 2: 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 13: Hypothesis 2: 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 14: Hypothesis 2: 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 15, 16, and 17.

Table 15: Hypothesis 2: 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 16: Hypothesis 2: 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 17: Hypothesis 2: 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.

2.7 Robustness Checks: Adding Population as a Control to Hypotheses 1 and 2

Tables 18, 19, 20, 21, 22, and 23 below are the estimations used in the paper, along with the alternative dependent variables, with population added as a control variable.

Table 18: Hypothesis 1: Lagged Private Design Capacity with Population

	Lagged Private DC <i>OLS</i>	Sum Court Orders <i>First Stage IV</i>	Lagged Private DC <i>IV</i>
	(1)	(2)	(3)
Sum Court Orders	-273.479** (120.565)		-4,679.397 (5,294.399)
Population	0.0002*** (0.00004)	0.00000*** (0.000)	0.0004 (0.0002)
Prop. Prior Prosecutor		0.630 (0.546)	
Constant	-1,164.379*** (350.908)	0.108* (0.065)	-799.459 (831.043)
N	1,550	1,550	1,550
Residual Std. Error (df = 1507)	1,687.053	0.627	3,244.438
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

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

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

Table 19: 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 Court Orders	-0.002 (0.003)		-0.129 (0.206)
Population	-0.000*** (0.000)	0.00000*** (0.000)	0.000 (0.000)
Prop. Prior Prosecutor		0.630 (0.546)	
Constant	-0.038*** (0.012)	0.108* (0.065)	-0.028 (0.026)
N	1,550	1,550	1,550
Residual Std. Error (df = 1507)	0.080	0.627	0.113
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

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

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

Table 20: Hypothesis 1: Lagged Sum Private Facilities - State Only with Population

	Lagged Sum Facilities - <i>OLS</i>	Sum Court Orders <i>First Stage IV</i>	Lagged Sum Facilities - <i>IV</i>
	(1)	(2)	(3)
Sum Court Orders	-0.373 (0.230)		-5.236 (5.072)
Population	0.00000** (0.00000)	0.00000*** (0.000)	0.00000* (0.00000)
Prop. Prior Prosecutor		0.630 (0.546)	
Constant	-1.141*** (0.427)	0.108* (0.065)	-0.738 (0.908)
N	1,550	1,550	1,550
Residual Std. Error (df = 1507)	1.781	0.627	3.539
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

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

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

Table 21: Hypothesis 2: 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 22: Hypothesis 2: 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 (0.00003)
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 23: Hypothesis 2: 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.

2.8 Alternative Independent Variable for Hypothesis 2: Logged Sum of All Lawsuits

Tables 24, 25, and 26 use the logged sum of all prisoners' lawsuits as the main independent variable in place of the sum of all lawsuits.

Table 24: Hypothesis 2: 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 25: Hypothesis 2: 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 26: Hypothesis 2: 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.

2.9 Weighting the Dependent Variables for Hypotheses 1 and 2

Tables 27, 28, 29, and 30 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 27: Hypothesis 1: Lagged Private Design Capacity (Weighted)

	Lagged Private DC Weighted - <i>OLS</i>	Sum Court Orders <i>First Stage IV</i>	Lagged Private DC Weighted - <i>IV</i>
	(1)	(2)	(3)
Sum Court Orders	226.861 (224.204)		-3,908.937 (2,426.100)
Prop. Prior Prosecutor		0.692 (0.424)	
Constant	-959.375*** (294.454)	0.183*** (0.070)	-314.991 (667.022)
N	1,550	1,550	1,550
Residual Std. Error (df = 1508)	1,865.669	0.676	3,369.350
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

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

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

Table 28: Hypothesis 1: Lagged Proportion in Private Facilities (Weighted)

	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 Court Orders	-0.008** (0.004)		-0.107 (0.157)
Prop. Prior Prosecutor		0.692 (0.424)	
Constant	-0.037*** (0.011)	0.183*** (0.070)	-0.022 (0.030)
N	1,550	1,550	1,550
Residual Std. Error (df = 1508)	0.075	0.676	0.101
Circuit FE	✓	✓	✓
Year FE	✓	✓	✓

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

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

Table 29: Hypothesis 2: Lagged Private Design Capacity (Weighted)

	Lagged Private DC Weighted - <i>OLS</i>	Sum Lawsuits <i>First Stage IV</i>	Lagged Private DC Weighted - <i>IV</i>
	(1)	(2)	(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 30: Hypothesis 2: 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.