Judicial Subversion: The Effects of Political Power on Court Outcomes

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Abstract

Are politicians in power treated more leniently in court? We show that candidates in Brazilian local elections charged with corruption are 43 percent less likely to be convicted if they narrowly win the election. There are small differences in the lawyers representing winners and losers, the effect is larger for members of powerful parties, and judges convicting mayors are more likely to be promoted by seniority than by merit. This favoritism could lead to an adverse selection of politicians in elected offices: Politicians charged with corruption are more likely to run for election and to become the next mayor.

1 Introduction

Keeping elected politicians accountable to the law is essential for political and economic development. Legal checks on politicians can prevent public funds embezzlement, ensure free and fair elections, create a predictable investment climate, and reduce political violence.[1] Such an outcome, however, might be difficult to achieve in practice. Judges and other agents of justice often face strong incentives not to enforce the law towards powerful politicians. Elected officials might have the power to make a judge's career difficult, to starve the budgets of law enforcement institutions, or to offer easier access to government jobs and services to friendly judges and their families.

In response, most modern societies impose rules to make the judicial system immune to political influence. These rules secure the life-time tenure of judges and ban them from most outside jobs, especially in the executive. In a majority of countries, judicial councils or the judiciary itself nominates and promotes judges (Garoupa and Ginsburg 2009). There are often similar rules protecting the independence of prosecutors. Are these rules sufficient to remove all influence of political power over judicial decisions? Some studies show that the judiciary favors elected politicians or their party when politicians control the nomination or promotion of judges (Ramseyer and Rasmusen 2001; Sanchez-Martinez 2017; Poblete-Cazenave 2019 and Mehmood 2019). As far as we are aware, however, there is no causal evidence showing whether judges favor politicians in office when politicians have no formal control over judicial careers. The main contribution of this paper is to provide such evidence.

We study corruption cases called *Ações de Improbidade* ("improbity cases") involving local politicians in the trial courts of the Brazilian state and federal judi-

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[1]North and Weingast (1989) argued that the separation of legislative and judicial powers from the executive after the 1688 Glorious Revolution in England spurred economic growth by creating credible commitment. Consistent with their argument, there is a strong cross-country correlation between economic growth and de facto judicial independence (Voigt, Gutmann, and Feld 2015). La Porta et al. (2004) found that a measure of de jure judicial independence is associated with economic freedom, though Glaeser et al. (2004) found no correlation between this measure of judicial independence and growth. There are also reasons to believe that an impartial judiciary can help reduce inequality (Glaeser, Scheinkman, and Shleifer 2003).

ciaries. All the formal rules ensuring that judges are immune to political influence are in place in Brazilian trial courts. Judges are difficult to remove, cannot be transferred to other positions against their will, and are not allowed to have any other job except teaching. Politicians have no direct influence over the judges' careers—they are appointed by a competitive exam administered by the appeals court, which also determines promotions. Finally, judges receive a very high salary, placing them among Brazil's top earners. Similar rules apply to the public prosecutors who are in charge of the prosecution.

Knowing whether these rules are sufficient to prevent politics from influencing judicial decisions is challenging. If elected politicians are more likely to win in court than others are, it is hard to know if this difference is due to political influence or if they just tend to have stronger cases.[2] We solve this empirical challenge by using a close election regression discontinuity design, focusing on corruption cases filed before the election.[3] If close elections are decided at random, marginal electoral winners and losers will, on average, tend to be involved in similar corruption cases at the time of the election. We can then conclude that systematic differences in court outcomes between marginal electoral winners and losers are causally due to the election result.

In our main regression, we find substantial effects of political power on judicial outcomes—marginal winners are between 11 and 74 percent less likely to receive a penalty than marginal losers are. There is no such difference for cases decided before the election. The estimate is larger if a politician is elected mayor, but it is also substantial for candidates for the local legislature. A large part of the effect seems to come from judges not deciding cases involving electoral winners, as opposed to acquittals. The gap in the number of decisions involving marginal winners and losers appears in the first two years after the election and shows no tendency to close even after six years. Thus, judges are not just postponing cases until the elected politician is out of office.

In the second part of the paper, we ask *why* judges are less likely to convict

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[2]Priest and Klein (1984) is the seminal article discussing this selection problem arising in the empirical analysis of court cases.

[3]A similar regression discontinuity design is used by Sanchez-Martinez (2017), Poblete-Cazenave (2019), and Assumpção and Trecenti (2020).

politicians in power. One explanation could be that winners of the election influence decisions through the legal process by hiring better lawyers. We provide two pieces of evidence indicating that this factor is unlikely to be the driver of our result. First, we directly measure the lawyers registered on each court case. Marginal electoral winners do not increase the quantity or quality of their lawyers substantially more than electoral losers do after the election. Second, we show that there also seems to be an effect of winning the election for cases in which the lawyers have done all the formal work before the election. This result also indicates that part of the effect comes from *judges* being influenced, as opposed to prosecutors or witnesses being influenced.

We next consider ways in which politicians in power could influence law enforcers by non-legal means. First, we test for a direct influence at the local level by exploiting the fact that some politicians are tried in a court located in their municipality while others are tried in a neighboring municipality. We find no evidence of a smaller effect if the politician is tried in a neighboring municipality. Moreover, the effect does not seem to decay with the distance between the municipality and the court. Thus, local favors, such as offering jobs to relatives of the judge or the need for institutional cooperation between the municipality and the court at the local level, are unlikely to be major reasons for the lower conviction rate of elected officials.

We proceed to examine whether law enforcers might be influenced indirectly through political party networks that cross municipal borders. Consistent with such a mechanism, we find that the effect is significantly larger for members of large parties and co-partisans of the state governor. One reason why being a member of a powerful party can help a local politician in court is that politicians at the state and federal levels appoint some appeals court judges, determine the judiciary's budget, and vote on increases in judges' salaries. These powers cause a politicization of the appeals court, which again can exert pressure on trial judges. We provide two pieces of evidence consistent with such an indirect influence over judges. First, we show that judges with a higher than median tendency of moving between judicial districts, and thus relying more on the appeals court, are more influenced by the election. Second, we show that judges who convict mayors in power are more

likely to be promoted by a seniority criterion than by a merit criterion in the future. While promotions by seniority are automatic, promotions by merit are decided in a discretionary manner by the appeals court.

We end our analysis of the mechanism by discussing five additional explanations we believe are unlikely to be major drivers of our result: Law enforcers not wanting to interfere with the local government due to social efficiency concerns, judges wrongly attributing winning a close election to be a signal of probity, elected politicians destroying evidence, judges being averse to media attention, and inter-linkages between Ações de Improbidade and criminal cases.

A lower conviction rate among politicians in power provides incentives for politicians charged with corruption to stand for election. In the final part of the paper, we show evidence consistent with such incentives leading to an adverse selection of politicians in elected offices. Politicians who become implicated in an Ação de Improbidade just before the election are estimated to be more likely to enter a mayoral race and to become the next mayor than could otherwise have been predicted.

The question of how to create a judicial system immune to the subversion of the politically powerful has captivated researchers at least since Montesquieu (1748), spawning a large literature across the social sciences.[4] The number of studies seeking to measure the degree to which judges act independently from the executive is, however, limited.[5] The existing studies almost all take place in settings where

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[4]See Helmke and Rosenbluth (2009) and Hilbink and Ingram (2019) for recent surveys of the political science literature. Seminal studies include Landes and Posner (1975), Ramseyer (1994), Weingast (1997), and Glaeser and Shleifer (2002).

[5]We are aware of the following studies. Ramseyer and Rasmusen (2001) show that Japanese lower court judges who are lenient in cases involving the government tend to be promoted at a higher rate. Helmke (2005) find that Argentinian judges started to rule against the government when it became clear that the ruling party would lose in the coming elections. Sanchez-Martinez (2017) documents that Venezuelan judges are more likely to favor government agencies aligned with the federal government, when deciding over employment claims. Poblete-Cazenave (2019) shows that candidates for Indian state legislatures aligned with the state ruling party are more likely to be acquitted in criminal cases if they win the election. Mehmood (2019) documents that presidentially appointed judges in Pakistan are more likely to rule in favor of the government than other judges are. Assumpção and Trecenti (2020) find that politicians have a *lower* likelihood of winning in small claims cases, and that winning an election does not influence this probability. Nyhan and Rehavi (2017), Gordon (2009), and Davis and White (2019) find evidence of partisan bias by presidentially appointed chief federal prosecutors in public corruption cases in the United States.

politicians have control over the career paths of law enforcers. The only exception we are aware of is Assumpção and Trecenti (2020), also in the Brazilian setting, which find no evidence that elected politicians are favored in small-claims cases. Our main contribution is thus to demonstrate that politicians in power might receive a favorable treatment by the judicial system even when they have no formal control over the careers of judges or prosecutors.

We also see our paper as a contribution to the broader literature on political corruption. This literature has focused on when voters punish corruption.[6] There are, however, reasons to believe that electoral accountability alone cannot curb corruption.[7] For instance, Avis, Ferraz, and Finan (2018) find that while federal audits in Brazil tend to reduce corruption, this reduction is mostly due to an increase in the perceived *non-electoral* costs of engaging in corruption. Our study adds to a small number of papers shedding light on the legal costs of engaging in corruption, perhaps the most important non-electoral cost.[8] By showing that judges are biased towards elected politicians, we also contribute to the large literature on judicial bias, which tends to focus on ethnic or ideological biases.[9] Our paper further adds

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[6]The extent to which voters punish political corruption is considered by, for instance, Ferraz and Finan (2008), Banerjee et al. (2014), and Boas, Hidalgo, and Melo (2019). See Ashworth (2012) for a review of this literature. Zamboni and Litschig (2018), Bobonis, Cámara Fuertes, and Schwabe (2016), and Avis, Ferraz, and Finan (2018) consider the causal effect of audits in reducing corruption.

[7]Ferraz and Finan (2008) found large effects of the release of Brazilian federal audits on electoral outcomes. It is not clear, however, whether such electoral punishment acts as a real deterrence of corruption. Also, in other studies voters have been found to be less inclined to punish corruption (e.g., Boas, Hidalgo, and Melo 2019). There are several theoretical reasons why electoral accountability might fail to deter corruption. Voters might fail to coordinate to vote on less corrupt politicians (Myerson 1991), term-limited politicians face no reelection incentives (Barro 1973; Ferraz and Finan 2011), and obtaining sufficient campaign finance to win elections might require politicians to engage in corruption. Famously, O'Donnell (1998) argued that "vertical accountability" at election time is not enough to deter executive abuses, and that between elections there is need for "horizontal accountability" provided by institutions such as legislatures and courts.

[8]There are studies assessing the causal effect of the presence of a local court on corruption (Litschig and Zamboni 2019), the correlation between indices of corruption and legal institutions across countries or U.S. states (Cordis 2009; Alt and Lassen 2008; Aaken, Feld, and Voigt 2010), the partisan bias of chief federal prosecutors in public corruption cases in the United States (Nyhan and Rehavi 2017; Gordon 2009; Davis and White 2019), the effect of prosecutorial resources on corruption convictions (Alt and Lassen 2014), and the role of elected judges in reducing corruption (Alt and Lassen 2008). We are not aware of any studies that causally assess the effect of elections on corruption convictions.

[9]Notable studies examining ethnic, racial, or ideological bias in courts include Shayo and Zuss-

to the literature on political selection (e.g., Cavalcanti, Daniele, and Galletta 2018; Artiles, Kleine-Rueschkamp, and León-Ciliotta, forthcoming; Fisman, Schulz, and Vig 2019; Dal Bó et al. 2017) by showing that a legal system protecting the powerful might lead to an adverse selection of politicians. Finally, we contribute to the literature on how the structure of the judicial career might influence decisions. While this literature has mostly focused on elected or politically appointed judges (e.g., Berdejó and Yuchtman 2013 and Lim 2013), we show evidence suggesting that career concerns could affect judicial decisions also in settings where judges are selected by competitive public exams.

The rest of the paper is organized as follows. In Section 2, we describe the legal remedies against corruption in Brazil, the careers of Brazilian judges and prosecutors, and which tools Brazilian local politicians have at their disposal to benefit or harm law enforcers. In Section 3, we explain how we constructed the data set of corruption cases involving local politicians, and in Section 4 we introduce the empirical strategy we use to estimate how being elected affects judicial decisions. We present our main results, showing that politicians are less likely to be convicted of corruption if they win the election, in Section 5, while in Section 6 we seek to explain why. In Section 7, we show that politicians have a higher probability of standing for election and of becoming the next mayor if they are implicated in an Ação de Improbidade. We conclude in Section 8.

2 Institutional context

In this section, we first describe the legal remedies against corruption among elected officials in Brazil, with a focus on Ações de Improbidade. Then we describe in detail the judges and the prosecutors who are involved in the cases and the general organization of the judicial system. Finally, we describe the relevant features of the Brazilian government. All rules described in this section are documented in Appendix A.1.

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man (2011), Alesina and Ferrara (2014), Arnold, Dobbie, and Yang (2018), Abrams, Bertrand, and Mullainathan (2012), and Rehavi and Starr (2014) and Cohen and Yang (2019).

2.1 The legal remedies against political corruption in Brazil

There are several legal actions available to punish corruption among elected officials. Corruption is defined as a crime in the penal code, and there are other corruption-related crimes such as money laundering. Also, there are three types of civil suits addressing corruption and less serious administrative malfeasance: *Ação Civil de Improbidade Administrativa* ("Ação de Improbidade"), *Ação Civil Pública*, and *Ação Popular*. In this paper, we do not consider criminal cases against corruption. Criminal cases against a mayoral candidate are sent to the appeals court if the politician wins the election—a rule colloquially known as *foro privilegiado*—making it difficult to interpret a close election regression discontinuity estimate for these cases. Among the civil suits, we focus on Ações de Improbidade since they are the most serious and they cannot be settled.[10]

Ações de Improbidade can be filed against any act by a public official that either violates administrative principles, causes damage to the treasury, or leads to illicit enrichment of the official. Typical cases involve the hiring of public workers without proper procedure and fraud in government contracting. Only the public prosecutor or the entity harmed by the corrupt act can bring the lawsuit. We consider only cases filed by the public prosecutor in this paper. The possible penalties are loss of office, loss of political rights for 3–10 years, reimbursing the treasury, fines up to 100 times the monthly wage, and the prohibition of receiving government contracts for 3–10 years. Politicians see the loss of political rights as one of the most severe penalties since it includes not being able to run for elected office.

The cases filed by the public prosecutor are typically initiated by someone filing a complaint to the prosecutor. The prosecutor then investigates (*inquérito civil*) and chooses whether to file a case depending on the outcome of the investigation. Ações de Improbidade involving local politicians are tried in the federal judiciary if the alleged corruption or malfeasance involves funds transferred to the municipality by the federal government.

An example of a typical case in our data is an Ação de Improbidade filed by the public prosecutor against the mayor of the municipality Fartura in the state of São

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[10]Ação Popular can only reverse political or administrative decisions, and leads to no further penalties for the politician, whereas Ação Civil Pública can lead only to fines and injunctions.

Paulo. The mayor had awarded a contract to provide fuel to the municipality to a firm owned by the son of the vice mayor, which is illegal. In the decision, the judge agreed the contract was illegal, ruled it void, and imposed a small fine on the vice mayor. The judge, however, acquitted the mayor, arguing the misconduct was not done in "bad faith", and did not impose any reimbursement of funds, arguing it was not proven that the contract had lead to a financial loss to the municipality.[11]

2.2   Brazilian trial court judges and prosecutors

Judges and public prosecutors at the trial courts in the state and federal judiciaries are formally independent of politics. State and federal judges are appointed by a competitive public exam administered by the state appeals courts (*Tribunal de Justiça*) and the federal appeals courts (*Tribunal Regional Federal*), respectively. Similarly, the public prosecutors are appointed by a competitive public exam administered by the state or federal chief prosecutor. Judges and prosecutors earn a very high wage—just their official wage places them among Brazil's top earners, not counting several perquisites such as housing allowances.

Judges and prosecutors are insulated from political influence by three constitutional provisions: (1) Their wages cannot be docked, (2) they are tenured after two years and can be fired only after an unappealable judicial decision, and (3) they cannot be transferred to a different judicial district against their will, except by an absolute majority vote by the appeals court or the National Council of Justice (*Conselho Nacional de Justiça*) in the case of judges or by the respective collegiate council in the case of prosecutors.[12] Besides, judges and prosecutors are prohibited from political activity, working for political parties, and managing private companies (although participation in capital is allowed). Politicians at the federal and state levels have, however, some formal powers over the judiciaries and the public prosecution. We explain these powers, the career paths of judges and prosecutors,

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[11]In Ações de Improbidade it is typically not enough to demonstrate that the law was broken—it must also be proven that it was broken in "bad faith." This requirement is a widespread reason for acquittals. Sentences including the words *não* ("no") and *dolo* ("intentional misconduct") appear in 70 percent of all acquittals for which we have the legal justification.

[12]For substitute judges in the state judiciary this rule is valid for the *circumscrição judiciária*, an area of contiguous judicial districts.

and the organization of the judicial system in the following subsections.

2.2.1 The judiciary

The state judiciary is divided into judicial districts (*comarcas*), which typically cover between one and three municipalities. The judicial districts are divided into three levels (*entrâncias*), with the most important cities and capitals as the final level. If a district is composed of several municipalities, the court is normally located in the largest municipality. A judicial district might have between one to several hundred judges, depending on its size. In districts with many judges, there are judges specialized in areas such as civil and criminal cases. Cases are randomly allocated to judges if there is more than one judge who has jurisdiction. The federal judiciary follows a similar structure, but the judicial districts (*subseções*) cover more municipalities than the state judicial districts. The federal judicial districts are aggregated in five regions (*região*), each covering two or more states, with each region having its own appeals court.

State and federal trial judges enter service as substitute judges (*juiz substituto*). In the federal judiciary and some state judiciaries, the substitute judge works side by side with a regular judge, dividing the cases between them.[13] In other state judiciaries, such as in Rio de Janeiro, substitute judges are assigned to an area of contiguous judicial districts (*circumscrição judiciária*) and work in any judicial district where there are vacant positions, the regular judge is absent, or there is need for extra assistance. After a two-year probation, if the judge did not commit any irregularities, she is promoted to a judge with tenure. Moving forward in her career, the judge can then be promoted from substitute to a regular judge (*juiz titular*).[14] Usually, the judge starts in a lower-level judicial district and is promoted to the higher levels by the appeals court on criteria that alternate between seniority and merit.[15]

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[13]For instance, in most federal courts the regular judge decides cases with an even number and the substitute judge decides cases with an odd number.

[14]The regular judge is required to live in the judicial district she is stationed, except by authorization of the appeals court.

[15]This alternation is typically implemented at the entrância level. For example, if the last promotion to the final level was by the seniority criterion, the next promotion to the final level must be

The seniority criterion depends on the time of service and can be ignored only by a two-thirds vote of the appeals court. The merit criterion is based on a ballot vote among the appeals court judges. The chief appeals judge chooses among the judges who received the most votes. The promotion of a judge who appears in the merit list three times in a row or five times in total, however, is mandatory. The promotion to the appeals court is based on the same alternating criteria of seniority and merit. In federal courts, the president has the final call on who is promoted by merit among the three judges who received the most votes.

Another formal influence of politics is that one fifth of the state and federal appeals court judges are nominated by the state governor and the president, respectively. These seats are filled alternately by public prosecutors and lawyers. The organizations representing public prosecutors or lawyers prepare a list of six candidates that are reduced to three by the appeals court.

The movement of judges between courts is highly dynamic (see, for example, Dahis, Schiavon, and Scot [2020]). Substitute judges in the state judiciary can freely be transferred within a *circumscrição judiciária*; regular judges can substitute for another judge in a different, sometimes higher-level, district; judges can be designated "auxiliary" judge in a higher-level district. These movements between judicial districts represent a potential source of influence of the appeals court.

2.2.2 The public prosecution

The state and federal public prosecution have a parallel structure to the judiciary with sections in each state and federal judicial district. The public prosecution (*Ministério Público*) is formally independent of both the executive and the judiciary and is often called the fourth branch of government. Public prosecutors also receive tenure after two years of service and are promoted by the chief prosecu-

according to the merit criterion. Open positions can be filled either by judges in the same entrância (*remoção*) or by judges from the entrância below (*promoção*). In the state judiciaries, remoção follows the same alternating criteria as promoção, and judges from the entrância below are considered for positions filled by the merit criterion only if there are no interested judges in the same entrância. In the federal judiciary, remoção is always by the seniority criterion and judges from the same region (*região*) seeking a position by remoção are prioritized. The alternating criteria of merit and seniority also apply to promotions of substitute judges to regular judges in both the federal and the state judiciaries.

tor. They are required to live in the judicial district they are stationed, except by authorization of the chief prosecutor. The state and federal chief prosecutors are appointed by the governor and the president, respectively, for a two-year term with the possibility of a one-term renewal. In practice, the governor and the president choose the chief prosecutor from a list of three candidates prepared after a vote among the prosecutors, but they are not obliged to choose from this list. Prosecutors have broad discretion in deciding which cases to work on, but any decision to drop a case is subject to review by the chief prosecutor.

2.3   Brazilian local government

The local government is composed of the mayor (*prefeito*) and the city council (*câmara de vereadores*). Mayors are elected via a first-past-the-post electoral system, except for cities with a population greater than 200,000, which have a second-round run-off between the top two candidates if none received more than 50 percent of the votes. The city council is filled by an open list proportional representation system. Each candidate is part of an electoral coalition composed of several parties. Coalitions receive seats in the council according to the vote share received by all candidates within the coalition. The seats are then allocated to the coalition members who received the most votes.

The main responsibilities of the mayor are to administrate the city budget and to collect municipal taxes. In doing so, the mayor has the power to contract firms and hire municipal workers. Many municipal employees are hired via a competitive civil service exam and receive tenure after three years of service, but there are some categories of jobs that give the mayor almost total discretion in deciding whom to hire, such as commissioned posts (*cargo em comissão*), positions of trust (*função de confiança*), and temporary jobs.[16] Mayors often use these job categories to circumvent the civil service exam (see Colonnelli, Teso, and Prem 2019; Akhtari, Moreira, and Trucco 2018). The chief role of the city council is to approve municipal laws.

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[16]The difference between commissioned posts and positions of trust is that commissioned posts can be given to any person that satisfy certain criteria (e.g., some posts may require a higher education diploma), while positions of trust can be given only to people who are already public servants and were hired initially via the civil service exam (*servidor público concursado*).

City councilors also have the power to hire workers, including commissioned posts to administer their offices and the wider city council. Council members write up and vote on the annual budget for the municipality, which is approved into law.

The local level of government is to a large degree replicated at the state and federal levels. The judicial system has formal financial autonomy, but one potential source of political influence is the control over the judiciary budget, including judge salaries. In addition to the yearly budgets, the judicial system's expansion, with the creation of more districts, courthouses, and judicial positions, depends on laws passed by the legislative and sanctioned by the executive.

3   Data

In this section, we explain how we built a data set of Ações de Improbidade involving local politicians and present summary statistics.

3.1   Judicial data

Our main data source is the daily official publication of each appeals court, called *Diário de Justiça*. The law requires appeals courts to publish all judicial decisions in these outlets, including trial court decisions, among several other minor statements about the case. In Figure A.2 in the Appendix, we show an extract of a Diário de Justiça publication. To generate a data set from this source, we use regular expressions to select all publications on Ações de Improbidade and then extract the names of litigants, lawyers and judges, the judicial district, and decisions. We use all available issues of the Diário de Justiça across all state and federal appeals courts, except the state appeals courts of Rio Grande do Sul and Distrito Federal.[17] In Figure A.1, we show the available coverage of the Diário de Justiça over time by appeals court.

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[17]The Diário de Justiça of the state judiciary in Rio Grande do Sul does not record the court case type (*classe*), so we were unable to identify which cases were Ações de Improbidade. Distrito Federal is the territory of Brazil's capital and federal government and does not have any municipalities or local elections.

Each case is identified by a unique number, allowing us to track cases over time. This number includes the year the case was filed. In the case of a final decision, we extract the penalties applied to each defendant. If there is a final decision, but it does not state that a defendant received any penalty, we consider this defendant as acquitted.[18] If we are not able to identify any final decision, we code the case as not yet decided. Note, however, that being *coded* as not decided does not necessarily mean that the case has not been decided in reality. It could be that we have missed some decisions or that there has been a final decision in the case before our first available date in the Diário de Justiça. The latter is not infrequent—there are publications regarding appeals and sentence execution in a case even after the final decision. We still keep these cases in our sample, since removing them in an automated way is tricky. As the start of the Diário de Justiça is predetermined, keeping these cases should not lead to any bias in our estimates, except that we will consistently overstate the number of undecided cases.

The Diário de Justiça lists the names of the lawyers registered on the case in every publication, in most states together with their unique registration number with the *Ordem dos Advogados do Brasil* (OAB). We use this information to create a data set with all the lawyers registered on each Ação de Improbidade at each publication date. From this data set, we calculate *lawyer experience* by the number of previous Ações de Improbidade that the lawyer has worked on and *lawyer success rate* by the share of these cases that has led to a full acquittal.[19]

Finally, the Diário de Justiça also records promotions of judges. We extract this information for the courts that consistently record if the promotion was by the seniority or merit criterion.[20] We were not able to consistently identify the judge in the state judiciaries of Paraíba, Rio Grande do Norte, and Piauí. These judiciaries are thus excluded whenever we use judge information in our regressions. The *Conselho Nacional de Justiça* provides the number of regular judge positions

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[18]A publication in the Diário de Justiça is considered to be a final decision if it contains any of the phrases "julgo procedente," "julgo parcialmente procedente" or "julgo improcedente."

[19]A decision is considered a full acquittal if it contains the expression "julgo improcedente".

[20]These courts are TRF2, TRF5, TJAC, TJAL, TJBA, TJCE, TJES, TJGO, TJMA, TJMS, TJMT, TJMG, TJPE, TJSC, TJSP, TJRJ and TJRO. The abbreviations TRF and TJ stand for Tribunal Regional Federal (federal court) and Tribunal de Justiça (state court), respectively.

(*varas*) by judicial district.

3.2   Electoral data and matching

We use election results and candidate characteristics from the electoral authorities (*Tribunal Superior Eleitoral*) and construct a data set of all candidates for mayor and city council between 2004 and 2016.[21] In mayoral races, we keep only candidates who either won the election or received the second-most number of votes. For city council candidates, we calculate their win margin as follows. Let V_i denote the votes received by the candidate, V the total number of votes cast, and n the number of seats in the council. In case the candidate did not receive a seat, the win margin is calculated as

$$M_i = \frac{V_i - \bar{V}_i}{V/n}$$

where $\bar{V}_i$ is the votes received by the candidate with the fewest votes among the members of i's electoral coalition who won a seat. For candidates who won a seat, the win margin is calculated as

$$M_i = \frac{V_i - \underline{V}_i}{V/n}$$

where $\underline{V}_i$ is the votes received by the candidate with the most votes among the members of i's electoral coalition who did not win a seat. We divide by V/n since this is the number of votes behind each seat in the council. To keep our sample balanced, we include the same number of "close losers" from each coalition as the number of seats allocated to the coalition. We match court cases to politicians on perfect name matching, ignoring accents. We match only within states—if a defendant in a case in the state court of Paraná has the same name as a candidate in the state of Goiás, it is not considered a match. To avoid false matches, we use an algorithm to exclude common names, described in the Appendix A.2.

Our main estimation sample consists of all cases that are *pending at the time*

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[21]Data on municipalities such as population, GDP, and geographic coordinates are all from the Brazilian Institute of Geography and Statistics (IBGE).

of the election: Cases we know from the unique case number to have been filed in a year before the election or the case has a publication in the Diário de Justiça before the election, and we have not been able to identify a final decision before the election. We consider only cases with the public prosecutor among the plaintiffs.

3.3   Summary statistics

In Table 1, we present summary statistics for our main estimation sample of all identified Ações de Improbidade involving candidates in the 2004–2016 local elections, pending at the time of the election. There are 7,444 observations. Over half the cases involve candidates for mayor, 48 percent involve previous mayors, and 20 percent involve incumbent mayors running for reelection. We observe the politician receive a penalty in 15 percent of the cases, while in 73 percent of the cases we have not been able to identify any final decision. Note that due to the discussion in Section 3.1, the true share of undecided cases is lower. The cases have a long duration—for cases that received a final decision, the average time between filing and final decision is almost seven years.

4   Empirical strategy

We want to estimate the effect of political power on judicial decisions. If politicians in power are shown to be more likely to win in court than opposition politicians, this difference in win rates does not prove that decisions are affected by the political power of the litigant—elected politicians and politicians out of office are likely involved in different types of cases. The ideal experiment would be to randomly allocate elected offices to politicians and look at the effect on judicial decisions on *already filed* cases. We exploit close elections to simulate this experiment. In particular, we look at corruption cases filed before the election, and not yet decided at the time of the election, comparing politicians who marginally won the election with politicians who marginally lost the election. The idea is that the winner of a close election is as good as randomly determined. Thus, winning and losing politicians should, on average, be involved in similar cases before the election, and

Table 1: Summary statistics

Statistic	Mean	St. Dev.	N
Candidate for mayor	0.57	0.50	7,444
Incumbent mayor	0.20	0.40	7,444
Incumbent city councillor	0.19	0.39	7,444
Ex mayor	0.48	0.50	7,444
Politician convicted	0.13	0.33	7,444
Politician acquitted	0.15	0.35	7,444
Court case not yet decided	0.73	0.45	7,444
Federal court	0.43	0.49	7,444
2016 election	0.49	0.50	7,444
2012 election	0.31	0.46	7,444
Years between filing and decision	6.97	3.49	2,041
Years between filing and election	4.24	2.98	7,434
Years between election and decision	3.23	3.00	2,041
Municipality population (1000)	77.77	371.58	7,441
Court located in municipality	0.30	0.46	7,444
Number of judges in district	4.16	9.17	7,441
Number of lawyers	3.91	4.12	4,822
Average lawyer experience	9.25	12.42	4,822

Notes: Ações de Improbidade involving candidates for mayor or council pending at the time of the election. "Politician convicted" is a dummy for whether the politician is recorded to have received a penalty, whereas "politician acquitted" indicates that the case is decided but we were not able to identify any penalty applied to the politician. The experience of a lawyer is defined as the number of other Ações de Improbidade she has worked on before the election.

any systematic difference in judicial decisions has to be due to the outcome of the election.

As our main specification, we use the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with local linear regression for the estimate and local quadratic regression for the bias correction. The specification for the local linear regression is

$$y_{ic} = \alpha + \beta E_i + \gamma M_i + \delta E_i M_i + \varepsilon_{ic} \tag{1}$$

where i is a politician and c is a corruption case. The variable M_i is the electoral win margin of the politician, and E_i indicates whether the politician was elected.[22] The outcome y_{ic} varies, but in the baseline model it is a dummy for whether the politician was convicted. To avoid researcher discretion in the choice of control variables, we tie our hands by using no controls. As a placebo check, we run the above regression for cases decided before the election. If close elections are indeed randomly determined, we should not see any effect of the election on these cases. We also report the main result using standard local linear specifications for different bandwidths, including the Imbens and Kalyanaraman (2012) optimal bandwidth. We cluster standard errors at the municipality by election-year level.

5 Main results: Are winners of close elections less likely to be convicted?

In Table 2, we show the results of the estimation of Equation 1 with a wide range of pre-election covariates as outcome variables. If close elections are indeed randomly determined, there should not be systematic differences between marginal winners and losers in these variables. In the first two rows, we consider all candidates in the 2012–2016 local elections. Marginal winners are not significantly less likely than marginal losers are to be involved in an Ação de Improbidade at the time of

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[22]The win margin in a mayoral race is defined as the difference in the votes received by the elected mayor and the candidate receiving the second-most number of votes, divided by the total votes cast. The win margin in city council elections is defined in Section 3.

the election, or earlier. Thus, less corrupt politicians do not seem to systematically win in close races. The regression discontinuity histogram in Figure A.4 in the Appendix also shows no evidence of a discontinuous decrease in politicians charged with corruption at the threshold for winning the election. In the rest of Table 2, we show the balance within the estimation sample of Ações de Improbidade pending at the time of the election. Consistent with the outcome of close elections being randomly determined, the estimated difference between marginal winners and losers is not statistically significant at the five percent level for any of the variables.

In Column 1 of Table 3, we present the result of estimating Equation 1 with outcome variable whether the politician is convicted. We estimate that marginal electoral winners are 6.4 percentage points less likely than marginal electoral losers are to receive a penalty. This effect is sizable, given that the estimated conviction rate among marginal losers is 15 percent. The coefficient is statistically significant at the one percent level. In Figure 1, we show a clear downwards jump in the rate of convictions when the number of votes passes the threshold necessary to win the election. We present local linear regression discontinuity estimates for different bandwidth sizes in Figure 2, including the Imbens and Kalyanaraman (2012) optimal bandwidth. The optimal bandwidth selectors choose bandwidths of 17 and 19 percentage points, but the effect is statistically significant at the five percent level for any bandwidth greater than five percentage points.

In Column 3 of Table 3, we show the result of the placebo test. Reassuringly, there is no effect of winning the election on cases decided *before* the election. The absence of a discontinuity in the conviction rate for cases decided before the election can be visually inspected in Figure A.3 in the Appendix. In Table A.3 in the Appendix, we show that our main result is robust to excluding cases with no pre-election publication in the Diário de Justiça and to including politicians with common names.

There could be two reasons why a defendant in an Ação de Improbidade has not been convicted: He has been acquitted, or he is still waiting for a decision. In Columns 3 and 4 in Table 3, we consider these two outcomes. The point estimates suggest that the main reason for a lower conviction rate among marginal winners is that their cases are less likely to have been decided. We estimate that cases involving

Table 2: Balance on pre-election variables

Variable	Difference	p-value	Mean	N
Ação de Improbidade pending	0.000	0.61	0.006	591654
Past Ação de Improbidade	0.000	0.82	0.001	591654
Candidate for mayor	0.057	0.39	0.571	7444
Incumbent mayor	0.049	0.26	0.204	7444
Incumbent city councillor	−0.022	0.75	0.193	7444
Ex mayor	0.032	0.62	0.476	7444
Federal court	−0.083	0.16	0.428	7444
2016 election	−0.072	0.25	0.490	7444
2012 election	0.018	0.73	0.314	7444
Years between filing and election	−0.547	0.08	4.239	7434
Municipality population (1000)	−33.708	0.11	77.771	7441
Court located in municipality	0.096	0.17	0.301	7444
Number of judges in district	0.027	0.96	4.163	7441
Number of lawyers	−0.508	0.26	3.905	4822
Average lawyer experience	−1.780	0.16	9.248	4822
Female	−0.008	0.75	0.071	7444
Age/100	0.004	0.73	0.580	5236
Member of the governor's party	0.034	0.40	0.152	7444
Member of the governor's coalition	0.042	0.55	0.315	7444
Member of the president's party	0.055	0.14	0.123	7444
Member of the president's coalition	0.008	0.85	0.199	7444
Member of a large party	0.028	0.63	0.419	7444

Notes: Regression discontinuity coefficients showing the estimated difference between marginal winning and marginal losing candidates for various pre-election covariates. "Ação de Improbidade pending" is a dummy for whether there is at least one Ação de Improbidade involving the candidate filed before the election and no identified final decision at the time of the election. "Past Ação de Improbidade" is a dummy indicating whether we have identified an Ação de Improbidade with a final decision before the election involving the candidate. The first two rows include all candidates in the 2012 and 2016 elections. The remaining rows consider the balance within our main estimation sample: Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Estimated using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Standard errors clustered at the municipality times election-year level.

Table 3: Main regression discontinuity results

	Politician convicted	Placebo	Court case decided	Politician acquitted
	(1)	(2)	(3)	(4)
Elected	-0.064	-0.0036	-0.051	0.017
(se)	(0.024)	(0.015)	(0.036)	(0.027)
N	7444	8478	7444	7444
Bandwidth	0.17	0.19	0.15	0.15
Mean Marg. Loser	0.15	0.049	0.27	0.16

Notes: Regression discontinuity estimates using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council. Cases pending at the time of the election, except Column 3, which uses cases decided before the election. Mean Marg. Loser shows the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the municipality times election-year level.

marginal winners have a 5.1 percentage point lower likelihood of being decided, compared to a 1.7 percentage point higher likelihood of ending in an acquittal. None of the estimates, however, are statistically significant at standard levels. Thus, we cannot conclude with certainty whether the effect is mostly driven by fewer decisions or by more acquittals.

Are cases involving marginal winners postponed for a short period only, or are they left on the docket indefinitely? Since our data set ends in mid-2019, there is a limit to how well we can answer this question. Still, if we confine ourselves to cases filed before the 2012 election, we can follow cases for six years. If cases are postponed for a short period only, we would expect the gap between the number of cases decided involving marginal winners and losers to close over time. If they are permanently left on the docket, we should see no such tendency.

Formally, we estimate Equation 1 with outcome variable whether the case has been decided within x years after the election where x varies from zero to six years. Figure 3 (a) presents the results. The dotted and the solid lines show the estimates
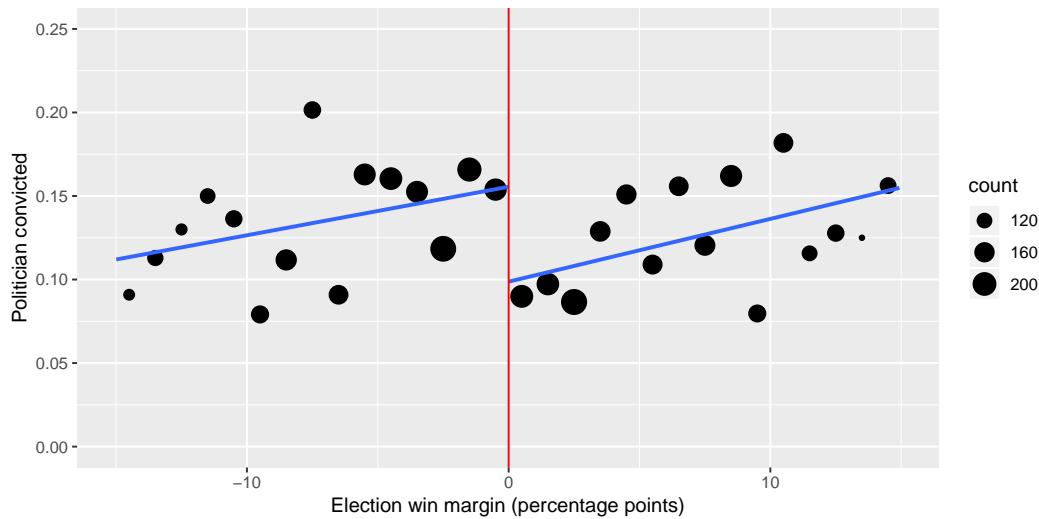
Figure 1: Regression discontinuity plot. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. A politician is considered convicted if he or she is recorded to have received a penalty in the Diário de Justiça. The size of the dots indicates the number of observations in each bin.

for marginal winners and losers, respectively, using the local linear fit. The regression discontinuity estimate is the difference between the two lines. The estimates indicate that there are almost no decisions involving marginal winners in the first year after they take office. The slope of the solid line is steeper than the dotted line up until two years after the election, meaning that there are also more decisions involving marginal losers in the second year after the election. From the third year and onward, the two lines run in parallel, suggesting that the number of decisions involving marginal winners and losers is roughly equal. Interestingly, judges are not just postponing cases until the politician is out of office—we do not see more decisions involving marginal winners than involving losers in the two years after the mandate of the marginal winner is over. Instead, there seems to be a permanent gap in the number of cases decided, with no sign of closing even six years after the election.[23] The difference in the number of decisions between marginal winners

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[23]There could be several explanations for why cases involving marginal winners are not decided even after the politician is out of office. One reason could be that the public, the media, or the prosecution has lost attention with the case. Also, after four years, both the judge and the prosecutor on the case have likely been replaced. Ações de Improbidade are among the most complex cases
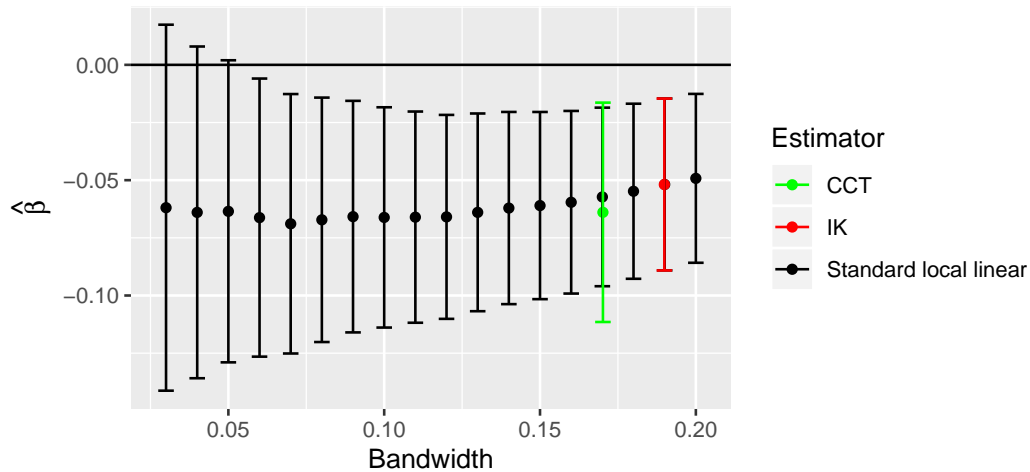
Figure 2: Regression discontinuity estimates for different bandwidths. The outcome variable is whether the politician is convicted. "IK" uses the Imbens and Kalyanaraman (2012) optimal bandwidth. "CCT" uses the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. 95 percent confidence intervals. Standard errors clustered at the municipality by election-year level.

and losers is statistically significant at the five percent level starting from the first year after the election.[24] In Figure 3 (b), we see the same pattern when we use convictions as outcome variable.

In Table 4, we decompose our main result by office and the various types of penalties. In Panels A and B, we consider, respectively, candidates for mayor and city council. We detect statistically significant effects across all the penalties, except for receiving fines and receiving any penalty in city council elections. The city

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a trial judge decides. It could be very time consuming to get familiar with an old case brief with hundreds or even thousands of pages. Since judges are measured by their productivity in terms of the number of cases decided by the *Conselho Nacional da Justiça*, there are strong incentives to focus on easier cases. Some cases could thus be indefinitely postponed. It is not uncommon for cases to stay for several years on the docket without any publication in the Diário de Justiça, and we have identified many cases filed in the 1990s that still have no final decision.

[24]This conclusion about statistical significance differs from what we concluded in Table 3 because of the exclusion of the 2016 election.

Table 4: Penalties imposed

	Politician convicted (1)	Loss of political rights (2)	Prohibited from contracts (3)	Reimbursing the treasury (4)	Fine (5)	Loss of office (6)	Politician acquitted (7)
A: Mayor							
Elected	-0.10	-0.089	-0.076	-0.074	-0.09	-0.056	0.039
(se)	(0.036)	(0.035)	(0.027)	(0.023)	(0.032)	(0.030)	(0.037)
N	4247	4247	4247	4247	4247	4247	4247
Bandwidth	0.12	0.13	0.15	0.18	0.12	0.13	0.13
Mean Marg. Loser	0.17	0.13	0.11	0.11	0.15	0.083	0.16
B: City council							
Elected	-0.044	-0.074	-0.063	-0.064	-0.04	-0.04	-0.0094
(se)	(0.043)	(0.030)	(0.030)	(0.027)	(0.037)	(0.019)	(0.040)
N	3197	3197	3197	3197	3197	3197	3197
Bandwidth	0.115	0.113	0.114	0.099	0.124	0.088	0.144
Mean Marg. Loser	0.14	0.09	0.089	0.088	0.11	0.041	0.16

Notes: "Politician convicted" is an indicator for whether the politician received any penalty. The outcome variables in Columns 2–6 are dummy variables indicating whether the politician received the respective penalties. "Politician acquitted" indicates that there has been a final decision with no penalty applied to the politician. Regression discontinuity estimates using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Mean Marg. Loser shows the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the municipality times election-year level.
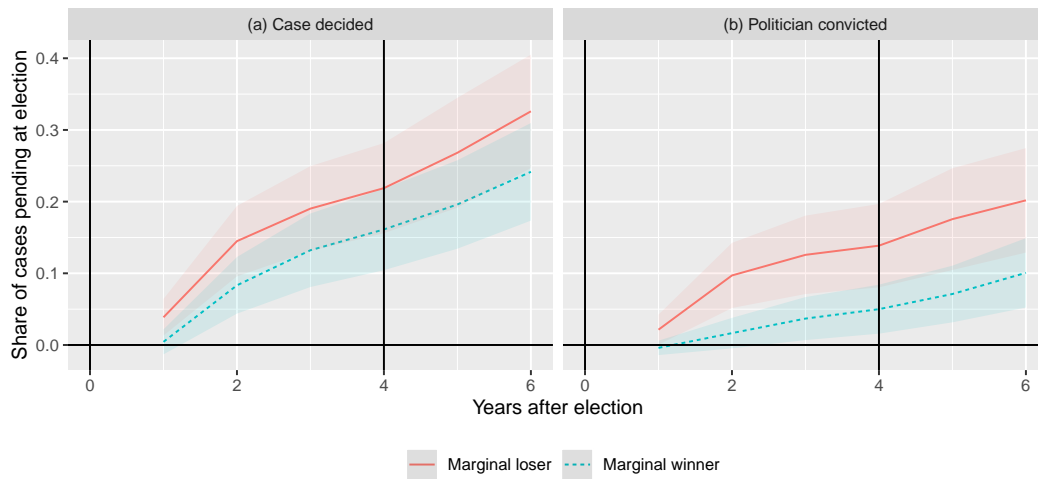
Figure 3: The timing of the effect. Panel (a) is the estimated share of Ações de Improbidade pending at the time of the election that has been decided, by years since the election. Panel (b) is the estimated shares of Ações de Improbidade pending at the time of the election in which the politician has been convicted. Excluding the 2016 election. Estimated using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias correction. The outcome variables are whether the case is decided, in Panel (a), and whether the politician is convicted, in Panel (b), within x years of the election. The estimates for marginal winners and losers are obtained using the local linear fit. 95 percent confidence intervals. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council. Standard errors clustered at the municipality by election-year level.

council election is estimated to have almost as large an effect as the mayoral election has.

In Table 5, we present basic heterogeneous effects, where we split the sample into sub-samples and estimate Equation 1 separately on each sub-sample. We estimate p-values of the difference in effects between sub-samples under the assumption that the sub-samples are independently drawn. The first two rows show that there is a statistically significant effect at the 10 percent level in both the federal and state judiciaries. The point estimate is higher in the federal judiciary, but the difference in effects is not statistically significant. The next four rows show that there is a statistically significant effect at the 10 percent level when the municipal-

Table 5: Heterogeneous effects

		Coef.	(se)	N	Band-width	Mean Marg. Loser	p-val. of Diff.
Federal judiciary	Yes	−0.080	(0.042)	3186	0.13	0.21	0.61
	No	−0.053	(0.030)	4258	0.15	0.11	
Municipality population	Yes	−0.076	(0.036)	3719	0.13	0.15	0.86
less than median (19,000)	No	−0.067	(0.040)	3718	0.15	0.16	
GDP per capita above	Yes	−0.078	(0.034)	3721	0.13	0.13	0.95
median ($R 11,000)	No	−0.074	(0.039)	3721	0.14	0.18	
More than median (two)	Yes	0.001	(0.040)	2988	0.15	0.11	0.01
judges in district	No	−0.131	(0.036)	4453	0.11	0.18	

Notes: Regression discontinuity estimates for different sub-samples. *p*-val. of Diff. is the *p*-value of the difference in estimated effects between the two sub-samples, assuming that the two sub-samples are independently drawn. The number of judges is calculated as the number of regular judge positions (*varas*) in the judicial district, excluding substitute judges. Coefficients estimated using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Mean Marg. Loser shows the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the municipality times election-year level.

ity of the politician is large (population above median), small (population below median), rich (GDP per capita above median), and poor (GDP per capita below median). We cannot reject the null hypothesis that the effect is equal across these groups of municipalities. The last two rows show, interestingly, that the effect is significantly lower for judicial districts with more than median number of judges.

6 Mechanisms: Why are politicians in power convicted at a lower rate?

There could be many reasons why politicians are less likely to be convicted of corruption if they win the election. In this section, we focus on two main mechanisms: Elected politicians being represented by superior lawyers who influence decisions through the legal process, and elected politicians using their power to influence law enforcers by non-legal means. We also discuss other potential explanations.

6.1 Do electoral winners have superior lawyers?

Electoral winners might be convicted at a lower rate because their lawyers present better legal arguments in court. There are at least three reasons to believe that electoral winners have better lawyers than electoral losers have: Electoral winners might have more to lose if they are convicted,[25] be less liquidity constrained,[26] and use the lawyers of the municipality to receive legal advice. The latter is illegal but anecdotally known to happen.

The most direct test of whether our result is driven by lawyers is to measure

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[25]Electoral winners might have more at stake since they risk losing their office. It is not clear, however, that electoral winners really perceive a significant risk of losing office—a convicted politician can continue in office while appealing the decisions and appeals usually take many years to resolve. In fact, by matching our data with the *Cadastro Nacional de Condenações Cíveis por Ato de Improbidade Administrativa e Inelegibilidade*, which keeps track of convictions in Ações de Improbidade for which all possibilities of appeals have been exhausted, we were not able to find any electoral winner in our sample who had to step down during the term due to an Ação de Improbidade.

[26]In Table A.5 in the Appendix, however, we find that the estimated effects in fact are larger for less liquidity constrained politicians, as measured in terms of their educational attainments and the size of their political campaigns.

Table 6: The effect of winning the election on the quantity and quality of lawyers

	Post-election increase in:		
	Number of lawyers	Average lawyer experience	Average lawyer success
	(1)	(2)	(3)
Elected	-0.34	1.3	-0.0077
(se)	(0.286)	(0.673)	(0.018)
N	2225	2225	1405
Bandwidth	0.14	0.15	0.13
Mean Marg. Loser	0.86	-0.8	-0.002

Notes: Regression discontinuity estimates with outcome variable the difference between the average of the respective variables in Diário de Justiça publications after and before the election. Only cases with publications both before and after the election. The experience of a lawyer is the number of other Ações de Improbidade she has worked on before the election. Her past success is the share of these cases that ended in a full acquittal, conditional on being decided before the election. Coefficients estimated using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Standard errors clustered at the municipality times election-year level.

if marginal electoral winners tend to register more or better lawyers on their cases than losers do after the election. This test is possible since the Diário de Justiça lists the lawyers in each publication. On average, each case in our sample has five publications, with 70 percent of the publications after the election. Thus, it is straight forward to count the number of lawyers and whether there are new lawyers added to the case at each date. As proxies for the quality of each lawyer we use *lawyer experience* defined as the number of other Ações de Improbidade the lawyer has worked on before the election, and *lawyer success rate* defined as the share of these cases in which there was a full acquittal, conditional on being decided before the election. We calculate the average quantity and quality of lawyers in Diário de Justiça publications after and before the election, and define the *post-election increase* as the difference between these two numbers.

In Table 6, we show the result from estimating Equation 1 with outcome variable the post-election increase in average lawyer quantity and quality. The point estimates indicate that, on average, marginal winners and losers increase the number of lawyers by, respectively, 0.5 and 0.9 after the election. The difference in effects is not statistically significant. In contrast, the lawyers working for marginal winners have, on average, experience from 0.5 more cases after the election, whereas the same number for marginal losers is -0.8. This difference is statistically significant at the 10 percent level. Compared to the average lawyer experience of nine cases in our sample, however, this difference is small and unlikely to substantially affect the conviction rate. Finally, there is virtually no difference between marginal winners and losers in average lawyer success. In sum, marginal winners do not increase the quantity or quality of their lawyers substantially more than marginal losers do after the election.

There might be changes to the quality of legal counsel that looking at the lawyers formally registered on the cases does not detect. As an additional test, we consider cases where the lawyers have done all the formal work before the election.[27] If electoral winners are convicted at a lower rate due to having better lawyers, we should expect to see no effect of winning the election on such cases. In Panel A of Table 7, we show the outcome of estimating Equation 1 for cases where the lawyers made their final allegations before the election.[28] While the relatively small sample size ($N = 361$) does not allow us to make strong conclusions, we estimate a 22 percentage point lower conviction rate for marginal winners than for marginal losers in these cases. In addition to suggesting that lawyers cannot be the only reason marginal winners are convicted at a lower rate, this result indicates that part of the effect comes from politicians influencing the judge, as opposed to influencing prosecutors and witnesses.

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[27]Whereas by law the judge is supposed to hand down a decision within 30 days after the lawyers have made their final allegations (*alegações finais*) and the judicial staff has made the case ready for decisions (*autos conclusos para sentença*), this rule is often not possible to follow in practice due to overcrowded dockets—in our sample it often takes several years between the final allegations of the lawyers and the judge's decision.

[28]We consider the final allegations to have been made if there has been a publication regarding the case including the words *alegações finais*, *razões finais*, *derradeiras alegações*, *memoriais finais*, or *manifestações finais* in the Diário de Justiça before the election.

Table 7: Heterogeneous effects: Testing mechanisms

		Coef.	(se)	N	Band-width	Mean Marg. Loser	p-val. of Diff.
A: Lawyers							
Case ready for decision	Yes	−0.219	(0.138)	361	0.17	0.29	0.24
before election	No	−0.055	(0.024)	7083	0.18	0.15	
B: The location of the court							
The court is located in	Yes	−0.054	(0.037)	3423	0.14	0.12	0.60
the municipality	No	−0.080	(0.034)	4021	0.17	0.18	
Dist. between municipality and	Yes	−0.094	(0.039)	3717	0.14	0.20	0.44
court above median (13 km)	No	−0.055	(0.033)	3718	0.14	0.11	
C: Political parties							
Politician is member of	Yes	−0.144	(0.038)	4066	0.11	0.18	0.02
a large party	No	−0.024	(0.036)	3884	0.14	0.12	
Politician member of	Yes	−0.203	(0.069)	1129	0.12	0.23	0.05
the governor's party	No	−0.056	(0.029)	6315	0.14	0.14	
Politician in the governor's	Yes	−0.254	(0.125)	410	0.10	0.31	0.15
party (federal judiciary)	No	−0.064	(0.044)	2776	0.15	0.20	
Politician member of	Yes	−0.171	(0.072)	1101	0.16	0.22	0.13
a past governor's party	No	−0.054	(0.028)	6343	0.14	0.14	
D: Judicial careers							
Judge has above median	Yes	−0.155	(0.048)	1726	0.11	0.19	0.08
(0.29) career instability	No	−0.042	(0.042)	1726	0.18	0.12	

Notes: Regression discontinuity estimates for different sub-samples. "*p*-val. of Diff." is the *p*-value of the difference in estimated effects between the two sub-samples, assuming the sub-samples are independently drawn. A case is ready for decision before the election if there has been a publication including the phrase "alegações finais", or synonyms, in the Diário de Justiça before the election. The distance between the municipality and the court is the distance between the city of the municipal headquarter and the court. A political party is large if it has more than median number of candidates in the 2004–2016 local elections. The "career instability" of a judge is the probability that the judge works in different judicial districts in two randomly chosen days in the two years before the election. Coefficients estimated using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Mean Marg. Loser is the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the municipality times election-year level.

6.2 Are law enforcers influenced by non-legal means?

There are many ways in which elected politicians could use their power to unduly influence the legal process. For instance, they can award municipal jobs or contracts to relatives of the judge.[29] Politicians in power might also have access to political networks that can influence law enforcers, perhaps due to career concerns. In this section, we present some evidence that speaks to this type of mechanism.

6.2.1 Direct influence: Local favors and threats

Some favors, such as the offering of municipal jobs to relatives of judges, are more effective if the distance between the court and the municipality is small. If such "local" favors and threats are driving the result, we would expect the effect of winning the election on court outcomes to decline with the distance between the municipality and the court. There is variation in this distance in our data since judicial districts typically are composed of several municipalities with the largest municipality hosting the court. We can thus divide our sample into politicians tried in a court located in their municipality and politicians tried in a neighboring municipality.

In Panel B of Table 7, we show the result from estimating Equation 1 for these two sub-samples. Interestingly, the effect is statistically significant at the five percent level also for cases tried in a neighboring municipality. The point estimate is, in fact, larger. In the last two rows of Panel B, we also document that the effect does not seem to decay with the distance between the court and the municipality. There is a statistically significant effect even for municipalities located further than median (13 km) away from the court, with a point estimate larger than for municipalities closer than the median. Thus, local favors such as the offering jobs or municipal services to friends and relatives of law enforcers are unlikely to be major drivers of our result.

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[29]For instance, a judge who held on to a corruption case involving local politicians for one and a half year without any decision was found to have two brothers and a cousin in cargos comissionados in the municipality (Borges 2008).

6.2.2 Indirect influence: Party networks

In the previous section, we found that elections also affect judicial decisions in distant municipalities. One explanation could be that judges are influenced by political networks that cross municipal borders. For example, state judges could be reluctant to convict a mayor from the same party as the state governor since the governor wields some power over the state judiciary.

We test for this type of mechanism in Panel C of Table 7. In the first two rows, we proxy the size of a politician's network by the size of his or her political party as measured by the number of candidates the party fielded in the 2004–2016 local elections. For members of larger than median parties, we estimate that winning a close election decreases the probability of conviction by 14 percentage points, whereas the effect is only two percentage points for members of smaller than median parties. The *p*-value of the difference in effects is 0.02. In rows 3–4, we consider members of the party of the governor. We estimate that winning a close election reduces the chances of conviction by 20 percentage points for co-partisans of the governor and by six percentage points for other politicians.[30] This difference is statistically significant at the five percent level. In rows 5–6, we show that the impact of winning the election is also higher for co-partisans of a *past* governor than for other politicians ($p = 0.03$). To prevent this result from being driven by the current governor, we excluded past governors from the same party as the current.

To test if the differential effect for the governor's party is driven by the governor's control over the state judiciary we consider only cases decided by federal judges in the last two rows of Panel C. Interestingly, there also seems to be a larger effect for members of the governor's party in the federal judiciary ($p = 0.15$). In Table A.7 in the Appendix, we show results for members of the governor's party, the governor's coalition, the president's party, and the president's coalition, separately for the state and the federal judiciaries. Consistent with the clout of the president over the federal judiciary, we find that the effect of winning the election on federal judge decisions is larger for members of the president's coalition than for other

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[30]This result mirrors the finding of Poblete-Cazenave (2019) that members of the governor's party in India are more likely to get their criminal cases disposed of if they win a seat in the state legislature, while the opposite is true for politicians unaligned with the governor.

politicians ($p = 0.00$). There are not enough cases involving co-partisans of the president to conclude whether this result also applies to members of the president's *party*.

To causally estimate if co-partisans of the governor are favored by the judiciary we apply the regression discontinuity design to gubernatorial elections in Section A.5 in the Appendix. We estimate that co-partisans of marginal winners in gubernatorial elections are nine percentage points less likely to be convicted than co-partisans of marginally losing gubernatorial candidates are.

Taken together, the evidence presented in this section is consistent with winners of local elections using their political network to influence judicial decisions. One reason why these political networks might sway judges is career concerns.

6.2.3 Judicial careers

Even though trial judges are formally independent, one can imagine informal ways for politicians to influence a judge's career.[31] Politicians at the state and federal levels determine the salaries of judges, the judiciary's budget, and appoint some appeals court judges. These formal powers mean that the court administration, headed by the appeals court's chief justice, becomes politicized.[32] The court administration could again use its power over the allocation of substitute judges or promotions by the merit criterion to exert pressure on trial judges. In this section, we show two pieces of evidence consistent with judges favoring politicians in power due to career concerns. First, we show that the election has a higher impact on judges who tend to switch between judicial districts. Second, we show that, conditioning on a large set of covariates, judges who convict elected mayors are more likely to be promoted by seniority than by merit.

As discussed in Section 2.2.1, judges frequently move between judicial districts, and the appeals court plays an important role in determining these movements. Judges who tend to switch between judicial districts might worry that their

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[31]Many of the points in this section also apply to prosecutors. Since we lack data on the careers of the prosecutors, however, we focus on the judges.

[32]For instance, Zaffalon (2018) documents that the chief justice in the state court of São Paulo tends to annul trial court decisions unfavorable to the state, possibly in exchange for an increase in the judicial budget and judge salaries.

decisions in politically sensitive cases could influence their careers. We measure a judge's *career instability* by the probability that the judge works in different districts in two randomly drawn days in the two years before the election. To prevent that the election affects the judge's identity, we focus on the *pre-election judge*, the judge on the case in the last publication in the Diário de Justiça before the election.[33] Consistent with career concerns, we estimate in Panel E of Table 7 that winning the election reduces convictions by 16 percentage points if the pre-election judge has a higher than median career instability, compared to four percentage points otherwise. The *p*-value of this difference in effects is 0.08.

To assess if convicting an elected politician has career consequences for a judge, we select the sample of all final decisions involving candidates for mayor and city council decided after the election but before the next election. We run the regression

$$Y_{jit} = \alpha_s + \mu_t + \beta Elected_{it} + \gamma Convicted_i + \delta Elected_{it} \times Convicted_i + \eta X'_{jit} + \varepsilon_{jit}$$

where Y_{jit} is a future career outcome of judge j deciding case i after election t, α_s and μ_t are state and election-year fixed effects, $Elected_{it}$ and $Convicted_i$ are dummies for whether the politician involved in case i is elected and convicted, respectively, and X_{jit} are control variables. We control for a cubic polynomial in the number of days between the decision and the last date of the Diário de Justiça, the number of days between the election and the decision, the win margin of the politician interacted with whether the politician became elected, the log population and GDP per capita of the municipality, the log population of the municipality hosting the court, the average log population of the municipalities the judge has worked in the past year, and quadratic polynomials in the number of days the judge has previously worked in the judicial district and overall as a judge. To ensure that we can adequately control for the past career of the judge, we keep only cases where we observe the judge for more than a year before the election.

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[33]One drawback of using the pre-election judge is that the judge deciding the case might be different, causing measurement errors. In fact, the judge deciding the case is the same as the pre-election judge in only 43 percent of the cases where we have a final decision and a pre-election publication in the Diário de Justiça. This concern, however, is partly alleviated by the fact that when the judge deciding the case and the pre-election judge differ, their career instability are nevertheless positively correlated (Pearson correlation of 0.3).

Table 8: The judge's future career

	Promoted by seniority			Promoted by merit		
	(1)	(2)	(3)	(4)	(5)	(6)
Panel A: Candidates for Mayor						
Politician convicted	−0.023	−0.020	−0.039	0.034	0.048	0.038
	(0.033)	(0.032)	(0.033)	(0.031)	(0.030)	(0.031)
Elected	−0.017	−0.017	−0.016	−0.009	−0.006	−0.002
	(0.024)	(0.025)	(0.028)	(0.022)	(0.022)	(0.026)
Politician convicted x Elected	0.111	0.121	0.103	−0.028	−0.027	−0.043
	(0.048)	(0.048)	(0.047)	(0.043)	(0.042)	(0.042)
Mean Dep. Var.	0.16	0.16	0.16	0.12	0.12	0.12
Observations	1,124	1,122	1,122	1,124	1,122	1,122
Panel B: Candidates for City Council						
Politician convicted	−0.052	−0.039	−0.054	0.022	0.048	0.009
	(0.054)	(0.056)	(0.056)	(0.049)	(0.051)	(0.049)
Elected	0.024	0.024	−0.0002	0.031	0.032	0.016
	(0.044)	(0.045)	(0.061)	(0.034)	(0.034)	(0.051)
Politician convicted x Elected	−0.034	−0.034	−0.041	0.051	0.043	0.079
	(0.068)	(0.069)	(0.067)	(0.068)	(0.066)	(0.063)
Mean Dep. Var.	0.13	0.13	0.13	0.11	0.11	0.11
Judge career controls		✓	✓		✓	✓
State fixed effects			✓			✓
Other controls			✓			✓
Observations	404	403	403	404	403	403

Notes: Ações de Improbidade involving candidates for mayor or city council decided within four years after the election. Only cases where we know the identity of the judge, the judge is observed at least one year before the election, and the court has the criterion of promotion recorded in the Diário de Justiça. Promoted by seniority (merit) is an indicator for the judge being promoted by the seniority (merit) criterion after the decision. All regressions control for a cubic polynomial in the days between the decision and the last Diário de Justiça date. "Other controls" are the number of days between election and decision, the politician's win margin interacted with becoming elected, and the log population and GDP/capita of the municipality. "Judge career controls" are log population of the court municipality, the average log population of the municipalities the judge has worked in the past year, and quadratic polynomials in the days the judge has worked in the district and overall as a judge. Standard errors clustered at the politician level.

In Table 8, we consider as outcomes dummies for whether the judge is recorded in the Diário de Justiça to be promoted by the seniority and the merit criterion in at least one occasion.[34] Panel A considers mayoral candidates, and Panel B considers candidates for city council. The results for mayoral candidates reveal an interesting pattern. The judges who convict losing mayoral candidates are estimated to be more likely to be promoted by merit and less likely to be promoted by seniority. In contrast, we estimate that judges who convict mayors are less likely to be promoted by merit and more likely to be promoted by seniority. Only the last coefficient, however, is statistically significant. One explanation could be that judges who convict mayors seek to be promoted via the seniority criterion to avoid opposition to their candidacy from the court administration. In Table A.9 in the Appendix, we investigate whether judges who convict elected politicians tend to work in smaller judicial districts in the future. We find no evidence of any such tendency. Overall, however, the results in the section suggest that career concerns are part of the explanation for why judges are less inclined to convict politicians in power.

6.3 Other mechanisms

6.3.1 Psychological mechanisms

Law enforcers could be more lenient on electoral winners without expecting anything in return. For instance, moving forward with a case involving an elected politician could impede the functioning of local government, and it might be better for society to wait until the politician's mandate is over. Given that we do not see any sign of an increase in the number of decisions involving marginal winners after the end of the mandate (Figure 3), we doubt, however, that this mechanism is the main driver of our result.

Another example of such a mechanism is that judges could wrongly attribute who wins in a close election to be a signal of probity. This mistake could happen if, for instance, electoral winners are less likely to be corrupt than electoral losers are, and the judge is not aware that the election was closely contested. We do not

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[34]We consider promotions both from one entrância to the next (promoção) and within entrâncias (remoção), as long as the criterion for promotion is stated in the Diário de Justiça.

have a good way of testing this mechanism. It seems unlikely, however, that the judge, who is required to reside in the judicial district and often would serve as an electoral judge overseeing the local election, does not know that an election was decided with a small win margin.

6.3.2 Destruction of evidence

A large share of the evidence used to convict in an Ação de Improbidade is in the form of documents. If such documents are in the hands of the municipality, an elected politician is in a good position to destroy evidence, making it harder to convict politicians in power. There are two reasons to believe that the destruction of evidence is not the main driver of our result. Most importantly, the prosecution collects most of the evidence during the investigations before they file the case (*inquérito civil*)—before the election. Also, in Section 6.1 we found that there seems to be an effect for cases ready for decision at the time of the election. There is no production of evidence after the case is ready for decision, except under extraordinary circumstances.[35]

6.3.3 Media attention

Since judges seem to postpone decisions involving politicians in power, one explanation could be that judges do not want to decide politically sensitive cases to avoid media attention. If this were the mechanism driving our result, we would expect, however, to also see fewer acquittals involving electoral winners, since acquitting an elected politician of corruption charges also have the potential to generate much press attention. Also, in Table A.6 in the Appendix, we find no clear relationship between local media presence and the effect on court outcomes of winning the election.

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[35]The judge could ask for the further production of evidence even when the case is ready for decision (*converter o julgamento em diligência*), if there are strong reasons to believe that any additional evidence will influence the decision. For cases in our sample, the judge rarely asks for such extraordinary production of evidence.

6.3.4 Spillovers from criminal cases

Mayors in Brazil have special privileges in criminal court cases called *foro especial por prerrogativa de função*, colloquially known as "foro privilegiado." Criminal cases involving mayors are tried in the appeals court, not in the trial courts. The acts a politician is accused of in an Ação de Improbidade are often criminal acts, which means that there might be a criminal case running in parallel, investigating some of the same facts. If a mayoral candidate wins the election, any criminal case in the trial court is sent to the appeals court. This change in the jurisdiction over criminal cases can impact Ações de Improbidade for two reasons. First, it becomes harder for the prosecutor in the Ação de Improbidade to collaborate with the prosecutor in the criminal case. Also, the Ação de Improbidade judge is required to take into account criminal acquittals due to a ruling over a fact. These interlinkages between criminal cases and Ações de Improbidade cannot, however, be the only explanation of our result. We have collected criminal cases involving local politicians in the state of São Paulo, and there are four times as many Ações de Improbidade as there are criminal cases. Thus, even if each criminal case is related to an Ação de Improbidade, this channel alone seems unlikely to generate a large effect. Also, city councilors have, with some exceptions, no special privileges.[36]

7 Incentives for corrupt politicians to run for election

We have documented that electoral winners are less likely than electoral losers are to be convicted of corruption. This favorable treatment could lead to an adverse selection of politicians in elected offices, as politicians facing corruption charges might seek political power to escape punishment. In this section, we investigate if politicians implicated in an Ação de Improbidade are more likely to stand for election and to become elected. While we do not have a source of random variation in the filing of Ações de Improbidade, we do our best to control for differences in the probability of running in future elections due to observable variables. We create

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[36]According to Cavalcante Filho and Lima (2017) city councilors have "foro privilegiado" in the states of Piauí, Roraima, Rio de Janeiro, and Bahia. There is still a statistically significant effect for city councilors after excluding these states.

a balanced panel of all candidates in the 2004–2016 local elections, including the years the politician did not stand for election, and estimate the regression

$$y_{imt} = \alpha_{mt} + \beta F_{it} + \gamma F_{it} T_{it} + \mu_t + \eta X'_{it} + \varepsilon_{it}$$

where i is a politician, m a municipality, and t an election year. The outcome variable y_{it} is whether the politician stands for election or becomes elected, and F_{it} indicates whether the politician has been charged in an Ação de Improbidade since the last election. We interact F_{it} with the time between the election and filing, T_{it}, to see if the effect is larger if the case is filed closer to the election. We control for municipality by election-year fixed effects α_{mt}, as well as fixed characteristics and past career outcomes of the politician X_{it}.[37] As measures of a politician's past career, we use whether the politician ran for office, became elected, and the win margin, for all previous elections back to 2000, interacted with the office the politician was seeking. The politician characteristics are gender, a quadratic polynomial in age, and an indicator for age being missing.[38]

We present the results in Table 9. Column 1 of Panel A shows that politicians are four percentage points more likely than could otherwise be predicted to run in the election if they are implicated in an Ação de Improbidade just before the election ($p = 0.0001$). The negative coefficient on "Years between election and filling" indicates that this effect is smaller if the case was filed long before the election. In Columns 2 and 3, we consider running for city council and for mayor as outcome variables. Virtually all of the increased probability of running for politicians charged with corruption comes from mayoral elections. The estimate of four percentage points is large compared to an average probability of becoming the next mayor of 10 percent for politicians implicated in an Ação de Improbidade. A potential explanation for this large effect is that elected mayors receive "foro privilegiado" in criminal cases, which often run in parallel to an Ação de Improbidade. Becoming mayor means that the criminal case is sent to the appeals court, where it

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[37]The municipality of a politician is defined as the first municipality in which the politician runs for election.

[38]Birth date is not reported for 55 percent of the candidates.

Table 9: Incentives for corrupt politicians to run for election

	Elections for:		
	Any office	City council	Mayor
	(1)	(2)	(3)
Panel A: Running in next election			
Ação de Improbidade filed	0.044	0.0003	0.044
	(0.008)	(0.007)	(0.005)
Years between election and filing	−0.008	0.007	−0.015
	(0.003)	(0.003)	(0.002)
Conditional Mean Dep. Var.	0.32	0.22	0.1
R^2	0.089	0.085	0.139
Panel B: Elected in next election			
Ação de Improbidade filed	0.008	−0.005	0.013
	(0.006)	(0.004)	(0.004)
Years between election and filing	−0.004	0.002	−0.006
	(0.002)	(0.002)	(0.001)
Conditional Mean Dep. Var.	0.1	0.06	0.04
Observations	4,461,476	4,461,476	4,461,476
R^2	0.149	0.147	0.111

Notes: All candidates in the 2004–2016 local elections. Balanced panel, including also years the politician did not run. "Ação de Improbidade filed" is a dummy for whether an Ação de Improbidade involving the candidate was filed within four years before the election. "Years between election and filing" is the average across all cases filed within those four years, and zero if no cases were filed. Controlling for politician characteristics, past political career, and municipality by election-year fixed effects. Politician characteristics are gender, a quadratic polynomial in age, and an indicator for age being missing. Past political career controls are whether the candidate ran, became elected, and the win margin for all of the previous elections back to 2000, interacted with the office the candidate ran for. "Conditional Mean Dep. Var." is the mean of the dependent variable among politicians charged in an Ação de Improbidade within four years before the election. Robust standard errors.

is believed that the chances of conviction are lower.[39]

Panel B considers as outcome variable whether the politician becomes elected. We estimate that politicians implicated in an Ação de Improbidade right before the election are 1.3 percentage points more likely to become the next mayor than could otherwise be predicted ($p = 0.001$).[40] Again, we find no effect for city council elections. We show the robustness of the mayoral election result to alternative specifications in Table A.4 in the Appendix.

8 Conclusions

We have documented that having a broad set of formal guarantees of judicial independence is insufficient to prevent politicians in power from receiving a more lenient treatment in court. Such judicial subversion can mute incentives against engaging in corruption among powerful politicians and adversely affect the pool of candidates running for elected office. What can be done to avoid this outcome? While we must leave a careful evaluation of alternative policies to future work, our results nevertheless give us some indications of what could help curtail political influence over judicial decisions.

First, note that our results do not imply that formal independence is ineffective, just that Brazil's measures are not sufficient. In particular, we have identified one limitation to the formal independence of judges that could make them susceptible to political pressure, namely a high propensity to move between judicial districts and a discretionary court administration. Reducing this discretion by, for instance, increasing the use of seniority criteria and limiting the number of substitute judges could reduce political influence. Another policy that could be investigated is whether increasing the number of judges in a judicial district reduces political influence. Finally, given that postponement of decisions is likely an important ex-

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[39] A famous example illustrating this point is the accusation that ex-president Luiz Inácio Lula da Silva was nominated to the office of *ministro-chefe da Casa Civil* in 2016 to move his criminal cases from the hands of Judge Sérgio Moro to the Supreme Court.

[40] Note that this result is not informative about the extent to which corrupt politicians are punished electorally as documented in Ferraz and Finan (2008). The higher chance of electing a mayor involved in an Ação de Improbidade could be attributed to the increased number of such candidates as opposed to voter preferences.

planation of the lower conviction rate among electoral winners, policies that reduce judges' discretion to determine when to decide cases might be effective.[41]

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[41]The new Brazilian Code of Civil Procedure of 2015 contained one such provision. The initial draft of the legislation said that judges shall decide cases in the order in which cases are made ready for decision. In the final version, however, the word "preferentially" was included.

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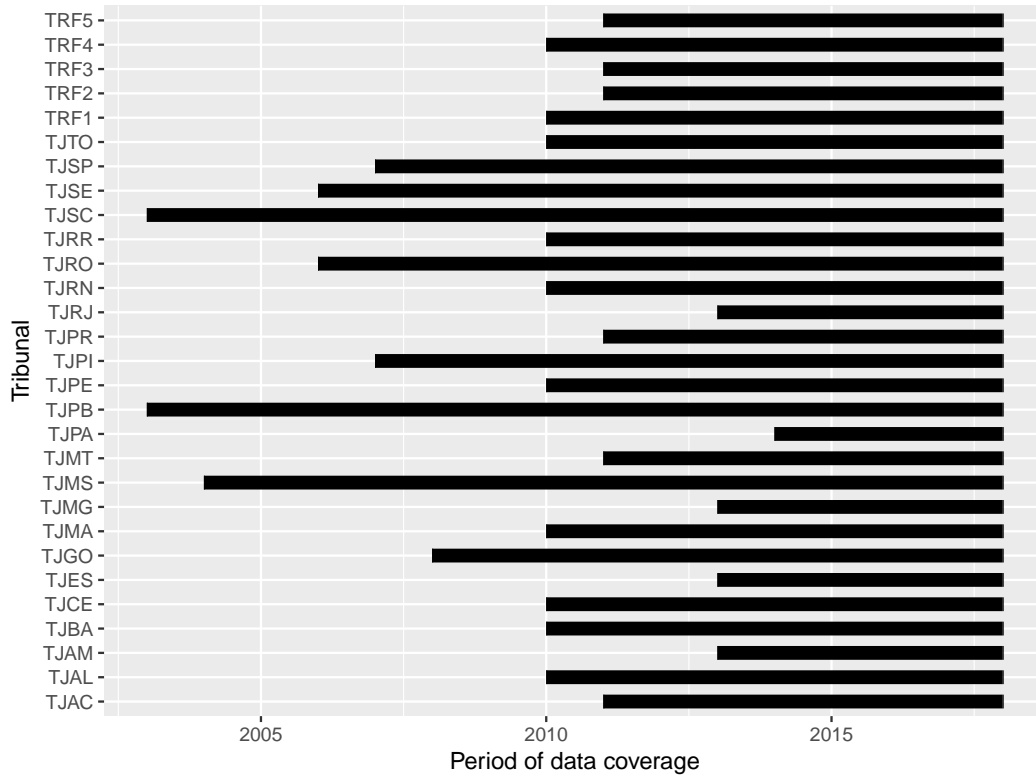
For Online Publication

A Appendix

Figure A.1: Coverage over time of the judicial data by appeals court. The differences in coverage is due to how far back the Diário de Justiça is available at the court websites. The abbreviations TRF and TJ stand for Tribunal Regional Federal (federal appeals court) and Tribunal de Justiça (state appeals court), respectively.

A.1 Institutional rules

In this section, we provide references to the laws behind the rules presented in Section 2. In Table A.1, we document the rules guiding the careers of judges and prosecutors. In Table A.2, we document the laws that govern the creation of judicial districts and determine the number of judges. We also use the laws in Table A.2 to match municipalities to their judicial districts as described in Section 4.

Table A.1: Judicial rules

Rule description	Law
Ação civil de improbidade administrativa	Law 8429/92
Judges are appointed via public exam	FC Art. 93-I (CA 45/2004)
Prosecutors are appointed via public exam	FC Art. 127 §2 (CA 19/1998)
Judges cannot have wages docked (irredutibilidade)	FC Art. 95-III (CA 19/1998)
Judges cannot be removed from the district (inamovibilidade)	FC Art. 95-II and 93-VIII (CA 103/2019)
Judges have tenure (vitaliciedade)	FC Art. 95-I
Substitute judges can only be moved within circunscrição	Supreme Court MS 27958
Titular judges are required to live in the comarca/subseção	FC Art. 93
Prosecutors cannot have wages docked (irredutibilidade)	FC Art. 128 §5-I-c (CA 19/1998)
Prosecutors cannot be removed from courts (inamovibilidade)	FC Art. 128 §5-I-b (CA 45/2004)
Prosecutors have tenure (vitaliciedade)	FC Art. 128 §5-I-a
Prosecutors are independent from all branches of government	FC Art. 127 §1-§2 (CA 19/1998)
Prosecutors are required to live in the judicial district	FC Art. Art. 129 §2 (CA 45/2004)
Judges are prohibited from political activity	FC Art. 95 §1-III
Judges are prohibited from management	LOMAN Art. 36
Prosecutors are prohibited from political activity	FC Art. 128 §5 II-e (CA 45/2004)
Prosecutors are prohibited from management	FC Art. 128 §5 II-c
Promotion of judges alternately by merit and by seniority	FC Art. 93-II-III (CA 45/2004) and 107-II
State judiciary remoção follows promotion criterion	FC Art. VIIIA (CA 45/2004)
Federal judiciary remoção follows seniority criteria	CJF Res. 248/2013 Art. 29 §3
Federal judiciary sequence of career movements	CJF Res. 248/2013 Art. 26
State judiciary sequence of career movements	LOMAN Art. 81
Merit promotion based on list with three judges	LOMAN Art. 80
Voting rules on the merit criteria	FC Art. 93-II-c (CA 45/04); CNJ Res. 106/10
President chooses federal appeals court judge by merit	LOMAN Art. 5
One fifth of the appeals court filled by lawyers and prosecutors	FC Art. 94 and Art. 107-I

Notes: FC stands for Federal Constitution, CA for Constitutional Amendment, and LOMAN for Lei Orgânica da Magistratura Nacional (Complementary Law 35/1979), CNJ for Conselho Nacional de Justiça, and CJF for Conselho de Justiça Federal.

Table A.2: Judicial organization laws

Description	Law
State Judicial Organization	
Acre (AC)	Complementary Law 221/2010 and 341/2017
Alagoas (AL)	Law 6564/2005
Amapá (AP)	Decree 069/1991
Amazonas (AM)	Complementary Law 17/1997
Bahia (BA)	Law n. 10845/2007
Ceará (CE)	Law n. 16387/2017
Espírito Santo (ES)	Complementary Laws n. 234/2002 and n. 788/2014
Goiás (GO)	Law n. 9129/1981 and n. 20254/2018
Maranhão (MA)	Complementary Law n. 14/1991
Mato Grosso (MT)	Law n. 4964/1985 and Complementary Law n. 490/2013
Mato Grosso do Sul (MS)	Laws n. 16511/1994 and n. 4904/2016
Minas Gerais (MG)	Complementary Law n. 59/2001
Pará (PA)	Law n. 5008/1981
Paraíba (PB)	Complementary Law n. 96/2010
Paraná (PR)	Law n. 14277/2003
Pernambuco (PE)	Complementary Laws n. 100/2007 and n. 366/2017
Piauí (PI)	Complementary Law n. 3716/1979
Rio de Janeiro (RJ)	Law n. 6956/2015
Rio Grande do Norte (RN)	Complementary Law n. 165/1999
Rio Grande do Sul (RS)	Law n. 7356/1980
Rondônia (RO)	Complementary Law n. 94/1993
Roraima (RR)	Complementary Law n. 221/2014
Santa Catarina (SC)	Law n. 5624/1979, C. Law n. 233/2002, and Res. 08/07 TJ 2007
São Paulo (SP)	Complementary Laws n. 3/1969 and n. 1274/2015
Sergipe (SE)	Complementary Laws n. 88/2003 and n. 301/2018
Tocantins (TO)	Complementary Law n. 10/1996
Federal Judicial Organization	Law 5010/1966
Judiciary has financial autonomy	Federal Constitution Art. 99

Notes: The only practical difference between a "law" and a "complementary law" is that the law is approved with a simple majority of the legislative vote, while the complementary law is only approved with an absolute majority vote.

Figure A.2: Example of a Diário de Justiça publication from the Maranhão state judiciary. A final decision in an Ação de Improbidade. Three dots indicate omitted content.

A.2 Excluding common names

We use the following algorithm to exclude common names. Each token in a name is assigned a log-likelihood based on how often the token appears in the names of all litigants involved in a court case in the state of São Paulo between 2012 and 2017. We exclude a politician's name if the sum of the log-likelihood of all tokens in the name is higher than -25 for mayoral candidates and -30 for city council candidates. We exclude more city council candidates since they have a higher risk of being falsely matched to a court case due to their lower prior probability of being involved in an Ação de Improbidade. A log-likelihood of -30 corresponds to names such as "Jefferson Carvalho Sales," "Eliana Aparecida dos Santos," and "Terezinha de Jesus Costa."
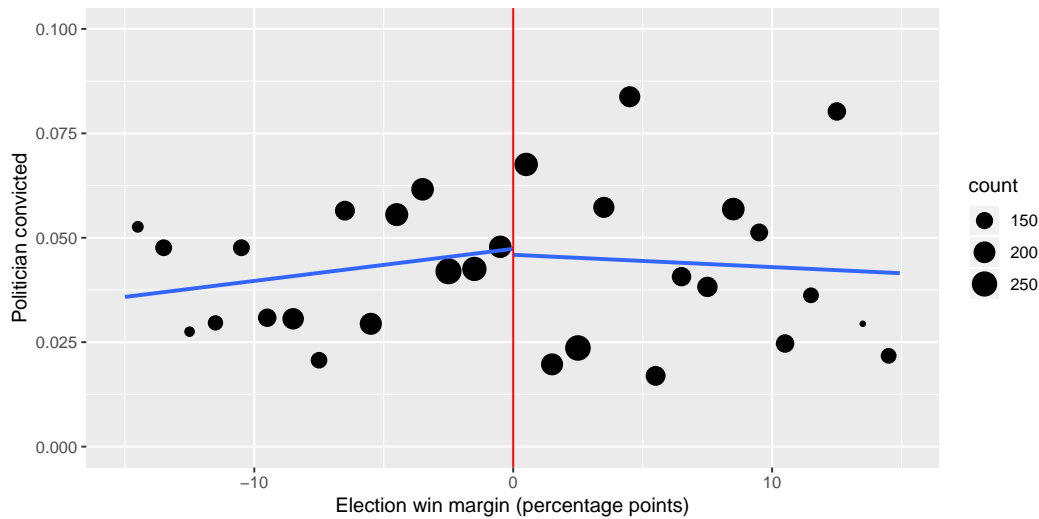
Figure A.3: Placebo regression discontinuity plot. Ações de Improbidade involving candidates for mayor or city council decided before the election.

A.3 Robustness

In Table A.3, we show two robustness tests of our main result. The first test addresses concerns that the election might influence which Ações de Improbidade enter into our sample. It is not infrequent that we are aware of an Ação de Improbidade that was filed before the election only from publications in the Diário de Justiça made after the election. Bias could be induced if the election affects whether there are post-election publications regarding a case. In Column 1 of Table A.3, we show the result from estimating Equation 1 including only cases that have a publication in the Diário de Justiça before the election. To avoid any possibility for the election to influence our sample, we make sure that all the information we use is from before the election. This approach means that we consider only pre-election publications when matching candidates and defendants, when determining whether the public prosecutor is recorded as a plaintiff, and when classifying the case as an Ação de Improbidade.[42] The estimated coefficient is still statistically significant at

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[42]In some instances, the type of the court case (*classe*) might change from one publication to another, for instance from an Ação Civil Pública to an Ação de Improbidade. By making sure that the case is recorded as an Ação de Improbidade before the election we avoid concerns that the classification of a court case might be endogenous to the election result.
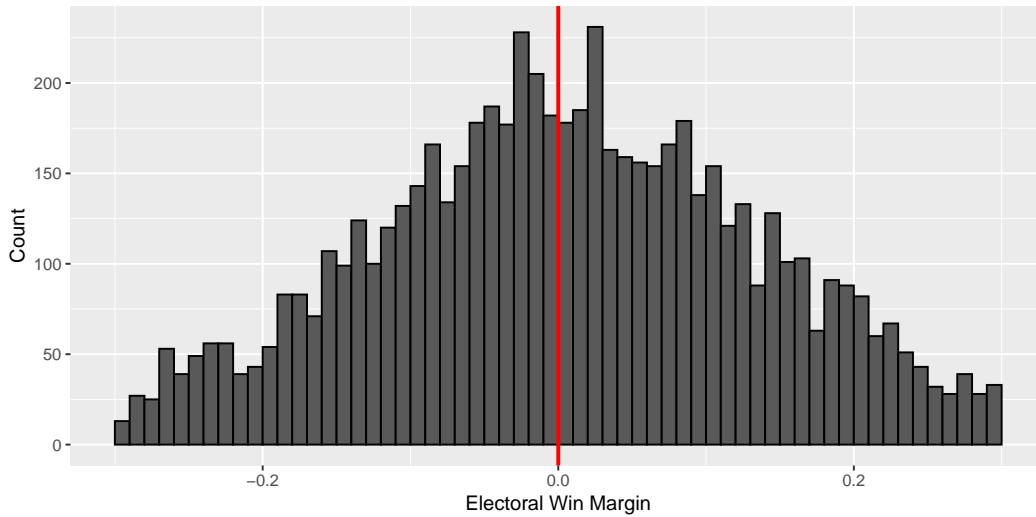
Figure A.4: Regression discontinuity histogram. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election.

the one percent level. As a further robustness check, we show in Column 2 that our main result is still statistically significant at the five percent level if we include politicians with common names. The estimated coefficient is slightly smaller, most likely due to false matches. In Table A.4, we show the robustness of the result presented in Section 7 to alternative specifications.

A.4 More heterogeneous effects

For the sake of completeness, we provide additional results on heterogeneous effects in Tables A.5 to A.7. All the variables that are not self-explanatory are defined in the table notes. We give details on data sources and interpretations for some of the results below.

A.4.1 Liquidity constraints

One reason that electoral winners can have better lawyers is that they might be less liquidity constrained due to the official salary and other income from holding elected office. In the first four rows of Table A.5, we investigate if the effect of the election on convictions is smaller for less liquidity constrained politicians. We

Table A.3: Robustness of main result

	Dependent variable: Politician convicted	
	Only pre-election cases	Keeping common names
	(1)	(2)
Elected	-0.093	-0.054
(se)	(0.034)	(0.023)
N	3561	8675
Bandwidth	0.12	0.14
Mean Marg. Loser	0.14	0.14

Notes: Column 1 shows the main regression discontinuity result restricting the sample to cases which has a pre-election publication in the Diário de Justiça including the name of the politician as a defendant and categorized as Ação de Improbidade. Column 2 shows the main regression discontinuity result, including politicians with common names. Regression discontinuity estimates using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Mean Marg. Loser shows the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the municipality times election-year level.

Table A.4: Incentives for corrupt politicians to run for election: Robustness

	(1)	(2)	(3)	(4)	(5)
Panel A: Running in next mayoral election					
Ação de Improbidade filed	0.131	0.043	0.050	0.046	0.028
	(0.006)	(0.005)	(0.006)	(0.005)	(0.006)
Years between election and filing	−0.018	−0.015	−0.018	−0.016	−0.014
	(0.002)	(0.002)	(0.002)	(0.002)	(0.002)
R^2	0.004	0.139	0.134	0.530	0.815
Panel B: Elected mayor in next election					
Ação de Improbidade filed	0.058	0.013	0.015	0.014	0.009
	(0.004)	(0.004)	(0.004)	(0.004)	(0.004)
Years between election and filing	−0.008	−0.006	−0.007	−0.008	−0.008
	(0.002)	(0.001)	(0.002)	(0.002)	(0.002)
Election year FE		✓	✓	✓	✓
Electoral controls		✓	✓	✓	✓
Politician controls		✓	✓		
Only 2012-2016 elections			✓		
Politician FE				✓	✓
Politician specific time trends					✓
Observations	4,461,476	4,461,476	2,230,738	4,461,476	4,461,476
R^2	0.002	0.111	0.098	0.518	0.801

Notes: All candidates in the 2004–2016 local elections. Balanced panel, including also years the politician did not run. "Ação de Improbidade filed" is a dummy for whether an Ação de Improbidade involving the candidate was filed within four years before the election. "Years between election and filing" is the average across all cases filed within those four years, and zero if no cases were filed. Electoral controls are whether the candidate ran, became elected, and the win margin for all of the previous elections back to 2000, interacted with the office the candidate ran for. Politician controls are gender, a quadratic polynomial in age, and an indicator for age being missing. Robust standard errors.

Table A.5: Heterogeneous effects: More variables

		Coef.	(se)	N	Band-width	Mean Marg. Loser	p-value of Difference
Politician has	Yes	−0.107	(0.039)	3316	0.12	0.17	0.26
higher education	No	−0.048	(0.035)	4128	0.16	0.15	
Politician has a larger	Yes	−0.093	(0.038)	4474	0.12	0.16	0.34
than median campaign	No	−0.048	(0.028)	4792	0.13	0.11	
Incumbent mayor	Yes	−0.026	(0.046)	1516	0.13	0.08	0.25
(mayoral candidates only)	No	−0.090	(0.030)	2731	0.14	0.12	
Higher than median share of	Yes	−0.076	(0.039)	3720	0.14	0.16	0.95
employees in public sector	No	−0.073	(0.036)	3719	0.13	0.15	
Politician older	Yes	−0.084	(0.044)	2581	0.14	0.15	0.55
than 54 years	No	−0.047	(0.043)	2655	0.16	0.16	
Filed less than median (1219)	Yes	−0.070	(0.043)	3537	0.16	0.17	0.71
days before the election	No	−0.092	(0.039)	3151	0.12	0.15	
Judge worked less than median	Yes	−0.131	(0.055)	1206	0.13	0.18	0.04
(1164) days in district	No	0.004	(0.037)	1200	0.14	0.04	
Judge has less than	Yes	−0.095	(0.113)	244	0.14	0.15	0.79
two years experience	No	−0.064	(0.035)	2152	0.14	0.11	
Local elite: Politician surname	Yes	−0.199	(0.114)	405	0.13	0.22	0.26
matches local street name	No	−0.066	(0.027)	6944	0.14	0.15	

Notes: Regression discontinuity estimates for different sub-samples. "*p*-value of Difference" is the *p*-value of the difference in estimated effects between the two sub-samples, assuming that the two sub-samples are independently drawn. To avoid censoring, we exclude cases decided shorter than 1200 days before the start of the Diário de Justiça when determining whether a judge has less than two years of experience and whether the judge has worked less than median days in the judicial district. A politician's name is considered to match a local street name if all the surnames of the politician appear in the name of the street. Coefficients estimated using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Mean Marg. Loser shows the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the municipality times election-year level.

Table A.6: Heterogeneous effects: Local media presence

		Coef.	(se)	N	Band-width	Mean Marg. Loser	p-value of Difference
Municipality has	Yes	−0.054	(0.036)	4240	0.15	0.16	0.36
FM radio in 2014	No	−0.104	(0.040)	3202	0.11	0.14	
Municipality has	Yes	−0.108	(0.045)	3176	0.12	0.17	0.29
a newspaper in 2014	No	−0.048	(0.034)	4266	0.14	0.14	
Municipality has	Yes	−0.038	(0.042)	2482	0.16	0.13	0.33
AM radio in 2014	No	−0.090	(0.032)	4960	0.14	0.17	
Municipality has a	Yes	−0.074	(0.032)	5089	0.14	0.15	0.88
community radio in 2014	No	−0.065	(0.048)	2353	0.12	0.16	
Municipality has an	Yes	−0.104	(0.032)	5500	0.12	0.17	0.03
internet provider in 2014	No	0.027	(0.052)	1942	0.12	0.09	

Notes: Regression discontinuity estimates for different sub-samples. "*p*-value of Difference" is the *p*-value of the difference in estimated effects between the two sub-samples, assuming that the two sub-samples are independently drawn. Coefficients estimated using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Mean Marg. Loser shows the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the municipality times election-year level.

Table A.7: Heterogeneous effects: The parties of the governor and the president

		Coef.	(se)	N	Band-width	Mean Marg. Loser	p-value of Difference
A: State courts							
Politician member of the	Yes	−0.171	(0.079)	719	0.12	0.17	0.12
governor's party	No	−0.038	(0.033)	3539	0.15	0.10	
Politician member of the	Yes	−0.061	(0.042)	1410	0.12	0.07	0.83
governor's coalition	No	−0.049	(0.039)	2848	0.15	0.13	
Politician member of the	Yes	−0.064	(0.077)	496	0.17	0.13	0.88
president's party	No	−0.051	(0.032)	3762	0.15	0.10	
Politician member of the	Yes	−0.081	(0.069)	842	0.12	0.15	0.65
president's coalition	No	−0.046	(0.033)	3416	0.16	0.10	
B: Federal courts							
Politician member of the	Yes	−0.254	(0.125)	410	0.10	0.31	0.15
governor's party	No	−0.064	(0.044)	2776	0.15	0.20	
Politician member of the	Yes	−0.095	(0.083)	935	0.10	0.20	0.94
governor's coalition	No	−0.088	(0.051)	2251	0.15	0.21	
Politician member of the	Yes	−0.132	(0.102)	419	0.14	0.20	0.45
president's party	No	−0.049	(0.039)	2767	0.22	0.20	
Politician member of the	Yes	−0.364	(0.105)	643	0.10	0.41	0.00
president's coalition	No	−0.029	(0.045)	2543	0.16	0.18	

Notes: Regression discontinuity estimates for different sub-samples. "*p*-value of Difference" is the *p*-value of the difference in estimated effects between the two sub-samples, assuming that the two sub-samples are independently drawn. Coefficients estimated using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the electoral win margin. No control variables. Ações de Improbidade involving candidates for mayor or city council pending at the time of the election. Mean Marg. Loser is the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the municipality times election-year level.

use as proxies for lower liquidity constraints whether the politician has higher education and whether the politician's campaign expenses are larger than the median. The point estimates are larger for both politicians with higher education and politicians with large campaigns. Thus, elected politicians having better lawyers due to liquidity constraints is unlikely to be the main driver behind our result.

A.4.2   Local elites

In the last two lines of Table A.5, we test if the effect of winning the election is larger for members of local elite families. As a proxy for belonging to the local elite, we use whether the politician's surname match a local street name. Many streets in Brazil are named after members of traditional local elite families. We use the *Cadastro Nacional de Endereços para Fins Estatísticos* from IBGE, a database with the name of all street addresses in Brazil. We estimate a large effect of winning the election on convictions for politicians with surnames matching a local street. We cannot reject, however, the hypothesis that the effect for other politicians is equal.

A.4.3   Media

In Table A.6, we show heterogeneous effects conditional on the presence of local media. The data on local media presence is from the *Pesquisa de Informações Básicas Municipais* (MUNIC) from IBGE. News media with local content is considered important to disseminate news about political corruption (Ferraz and Finan 2008) and might influence judicial sentencing (Lim, Snyder, and Strömberg 2015). We find, however, no clear relationship between local media presence and the effect of winning an election on court outcomes.

A.5   Close gubernatorial elections

To estimate the extent to which politicians from the same party or electoral coalition as the state governor are treated more leniently by the judicial system, we apply our empirical design to gubernatorial elections in this section. For each candidate in a gubernatorial election, we select all Ações de Improbidade involving politicians who have previously been a candidate in a local election for the same party as the

candidate, or from a party in coalition with the candidate. If a local politician has been a member of the party of more than one gubernatorial candidate, we keep the most recent affiliation. As in our main specification, we consider only Ações de Improbidade pending at the time of the gubernatorial election.

In Column 1 of Table A.8, we consider members of the same party as the gubernatorial candidate, while in Column 2 we consider members of the electoral coalition. We estimate that members of the party of a gubernatorial candidate are 9 percentage points less likely to be convicted in Ações de Improbidade filed before the election if the candidate wins the gubernatorial election by a small margin. This effect is statistically significant at the ten percent level. In Figure A.5, we show the regression discontinuity plot. We show local linear regression discontinuity estimates for bandwidths between five and 30 percentage points in Figure A.6. The local linear estimates are statistically significant at the five percent level for bandwidths of 13 percentage points and above. As the bandwidth decreases, however, the standard errors increase and the estimate tends toward zero. This tendency is a concern and might indicate that there is no jump at the discontinuity. There are few gubernatorial elections decided by a small win margin; without more data, it is difficult to conclude with certainty if members of the governor's party indeed receive a more lenient treatment by the judicial system. We find no statistically significant effect for members of the candidate's coalition in Column 2.

A.6   More on judicial careers

In Table A.9, we run the same regressions as in Section 6.2.3, except with the outcome variables being the average of the log population of the municipality the judge deciding the case works in across two and six years after the decision, or until the last date of the Diário de Justiça. The size of the municipality might be a good proxy for the career outcome of a judge—anecdotally, larger municipalities are more attractive as they provide more amenities and a more stimulating work environment. We find no evidence that judges who convict elected politicians tend to work in smaller municipalities in the future.

Table A.8: Gubernatorial election regression discontinuity results

	Dependent variable: Politician convicted	
	(1)	(2)
	Politicians from the candidate's party	Politicians from the candidate's coalition
Gubernatorial candidate elected	-0.091	-0.035
(se)	(0.049)	(0.043)
N	12452	37138
Bandwidth	0.20	0.22
Mean Marg. Loser	0.15	0.092

Notes: Ações de Improbidade involving politicians from the same party or coalition as a gubernatorial candidate pending at the time of the gubernatorial election. Regression discontinuity estimates using the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiunik (2014) with a local linear regression for the estimate and local quadratic regression for the bias-correction. The running variable is the share of votes obtained in the election by the candidate for governor. No control variables. Mean Marg. Loser shows the estimated mean of the outcome variable for the marginal loser, using the local linear fit. Standard errors clustered at the state times election-year level.

Table A.9: Judicial careers: Average future size of judicial district

	Dependent variable:					
	Mean log population years 0-2			Mean log population years 0-6		
	(1)	(2)	(3)	(4)	(5)	(6)
Panel A: Candidates for Mayor						
Politician convicted	0.329	0.007	0.002	0.313	−0.006	−0.011
	(0.098)	(0.031)	(0.031)	(0.096)	(0.034)	(0.035)
Elected	−0.052	−0.012	−0.039	−0.048	−0.006	−0.052
	(0.082)	(0.026)	(0.031)	(0.081)	(0.029)	(0.035)
Politician convicted x Elected	0.002	0.021	0.031	−0.036	−0.016	−0.010
	(0.137)	(0.045)	(0.045)	(0.136)	(0.049)	(0.048)
Mean Dep. Var.	11.44	11.44	11.44	11.5	11.5	11.5
Observations	1,718	1,718	1,718	1,719	1,719	1,719
Panel B: Candidates for City Council						
Politician convicted	0.190	0.074	0.069	0.140	0.037	0.030
	(0.139)	(0.043)	(0.043)	(0.139)	(0.052)	(0.052)
Elected	0.019	−0.027	−0.022	−0.029	−0.059	−0.030
	(0.102)	(0.031)	(0.039)	(0.100)	(0.038)	(0.048)
Politician convicted x Elected	−0.241	−0.059	−0.037	−0.162	0.002	0.034
	(0.182)	(0.057)	(0.059)	(0.180)	(0.068)	(0.071)
Mean Dep. Var.	11.65	11.65	11.65	11.7	11.7	11.7
Judge career controls		✓	✓		✓	✓
State fixed effects			✓			✓
Other controls			✓			✓
Observations	1,069	1,059	1,059	1,070	1,059	1,059

Notes: Ações de Improbidade involving candidates for mayor or city council decided within four years after the election. Only cases where we know the identity of the judge, the judge is observed at least one year before the election, and the court has the criterion of promotion recorded in the Diário de Justiça. "Mean log population years 0-2 (0-6)" is the average log population of the municipality where the judge is working over the next two (six) years after the decision, or until the end of the Diário de Justiça. All regressions control for a cubic polynomial in the days between the decision and the last Diário de Justiça date. Other controls are the number of days between election and decision, the politician's win margin interacted with becoming elected, and the log population and GDP/capita of the municipality. Judge career controls are log population of the court municipality, the average log population of the municipalities the judge has worked in the past one and two years, and quadratic polynomials in the days the judge has worked in the district and overall as a judge. Standard errors clustered at the politician level.
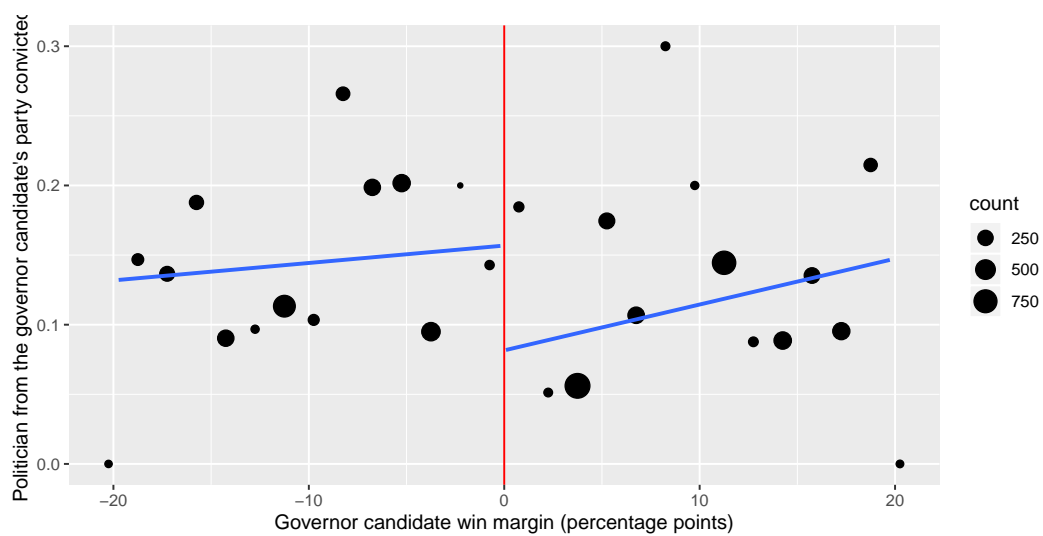
Figure A.5: Gubernatorial elections regression discontinuity plot. Ações de Improbidade involving politicians from the same party as a gubernatorial candidate pending at the time of the gubernatorial election. The size of the dots indicates the number of observations in each bin.
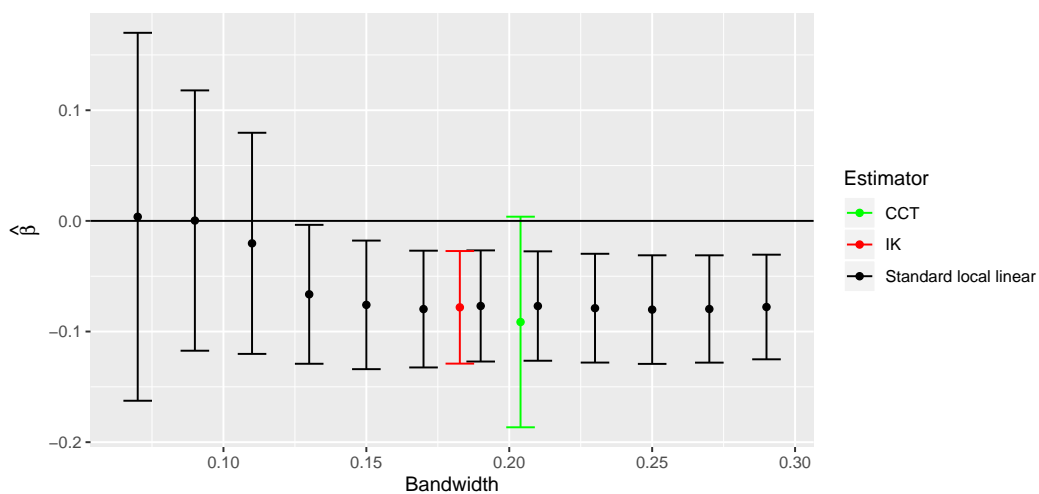
Figure A.6: Gubernatorial elections regression discontinuity estimates for different band-widths. Ações de Improbidade involving politicians from the same party as a gubernatorial candidate pending at the time of the gubernatorial election. The local linear specifications use a triangular kernel. "IK" uses the Imbens and Kalyanaraman (2012) optimal band-width. "CCT" uses the bias-corrected estimator proposed by Calonico, Cattaneo, and Titiu-nik (2014) with a local linear regression for the estimate and local quadratic regression for the bias correction. 95 percent confidence intervals. Standard errors clustered at the state times election-year level.