

# Incentive Effects of Recall Elections: Evidence from Criminal Sentencing in California Courts

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*We promise as judges to rule on the facts and on the law, not on public opinion... When public opinion affects a juror's decision or a judge's decision, it corrupts the rule of law. This recall, if successful, will make it harder for judges to keep that promise ...***The judicial recall, if successful, will be a silent force, a silent corrupting force. A force that will enter the minds of judges as they contemplate difficult decisions.**

- Judge Aaron Perksy, May 18 2018

# Introduction

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Broader significance: electoral incentives of public officials

## Challenges

- recall campaigns are not randomly assigned;
- recall threat priced in.

# What we're up to

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Evaluate claims that the recall effort

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Findings

- Recall *announcement* led to an instantaneous 33% increase in average sentence length
- No evidence that the recall mitigated racial disparities.
- Estimates of cumulative effects

## Background: related research

**Empirical research on electoral incentives generally** (e.g., Besley and Case 1995; Ferraz and Finan 2011; Alt, Bueno de Mesquita, and Rose 2011)

**Electoral incentives and sentencing behavior** (e.g., Huber and Gordon 2004; Gordon and Huber 2007; Lim 2011; Park 2017)

**Racial bias in criminal trials** (e.g., Anwar, Bayer, Hjalmarsson 2012; Alesina and La Ferrara 2014, Abrams, Bertrand, Mullainathan 2012; Park 2017)

# Background: recall elections

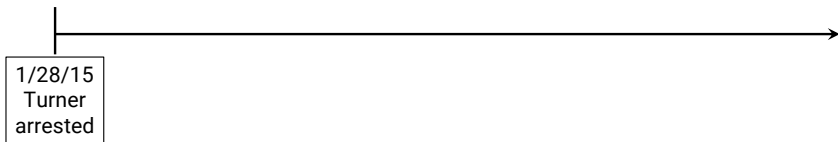
39 US states have some form of recall election; eight authorize recall of judges

Extant empirical research focuses on voter behavior in recall elections (e.g., Ho and Imai 2012; Segura and Fraga; Maskett 2011; Shaw and McKenzie 2005)

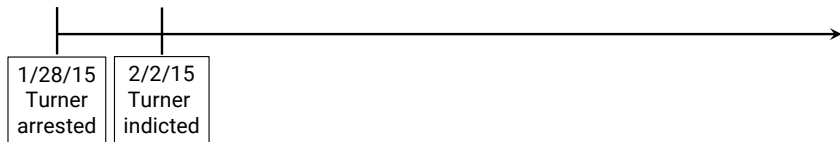
## Recall elections in California

- Adopted in 1911 (Article 2, §§13-19 of CA Constitution)
- State: 165 attempts since 1913; 9 qualified; 5 successful
- Local: 333 qualified since 1995; 244 successful
  - One Superior Court judge: Aaron Persky (2018)

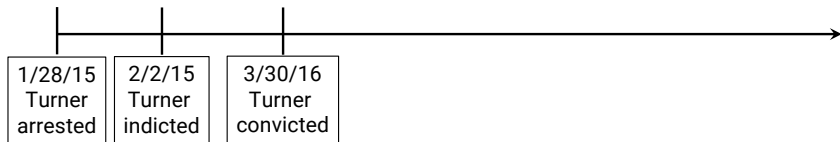
# Timeline: the recall of Judge Persky



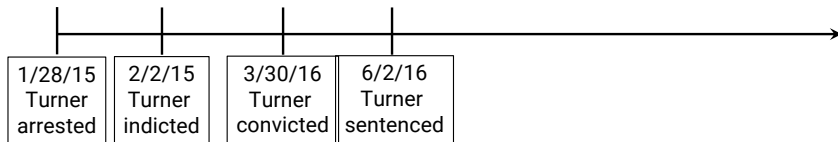
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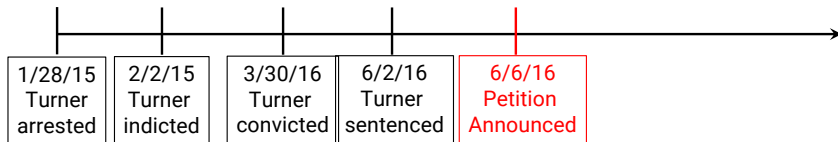
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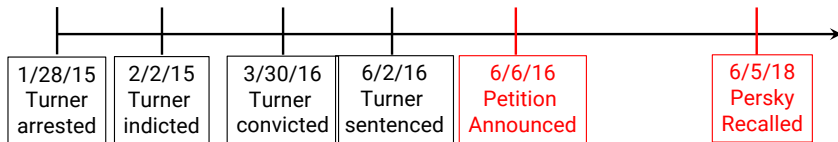


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# Empirical approach

## 1. Immediate effect of recall salience

Let  $t_k$  be calendar date of critical event  $k$ . We estimate:

$$y_{ijt} = \beta_0 + \beta_1 \mathbb{I}(t > t_k) + \beta_2 f(t - t_k) + \dots$$

where  $y_{ijt} \equiv \min\{s_i/\bar{s}_i, 1\}$  is normalized sentence of conviction  $i$  by judge  $j$  at time  $t$ ;  $f(\cdot)$  is smooth function

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- conduct placebo tests for contemporaneous shocks.

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## 2. Heterogeneous effects by severity, race

## 3. Cumulative effects of recall shock

## Data: sentencing and defendants

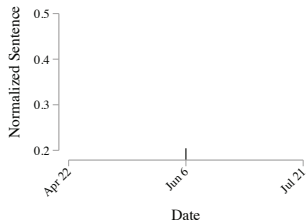
- No centralized repository of California sentencing data
- Crawled 494,840 CA superior court cases from six counties (Fresno, Napa, Santa Barbara, Sacramento, San Bernardino, Santa Cruz)
  - Sacramento data missing judge identifier
- Crawled 201,066 arrest records to get defendant characteristics (e.g., race)
- Extracted 22,139 criminal felony charges involving 19,845 cases (Jan 2015 to Dec 2018, inclusive)
  - Successfully matched with 12,844 arrest records

## Immediate effect of recall salience

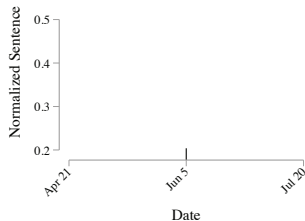


# Graphical Analysis

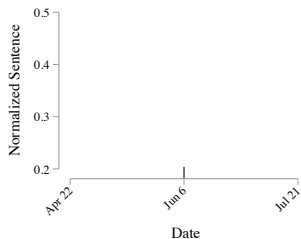
Petition Announcement, Unadjusted



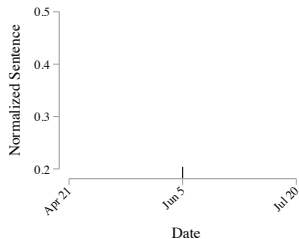
Recall Election, Unadjusted



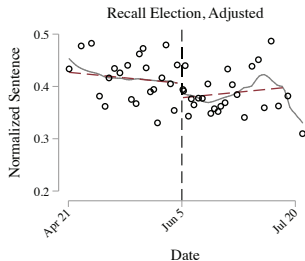
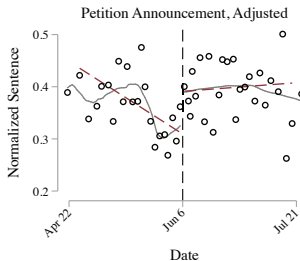
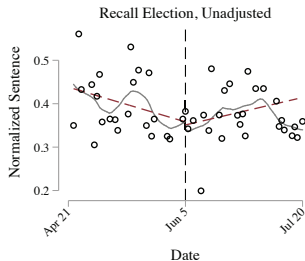
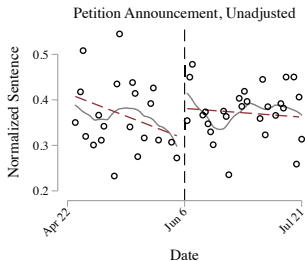
Petition Announcement, Adjusted



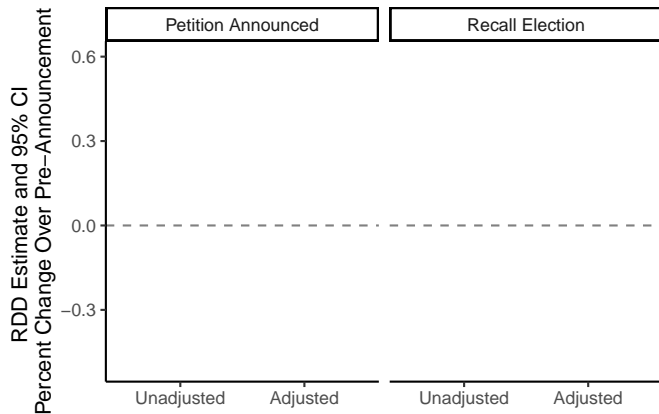
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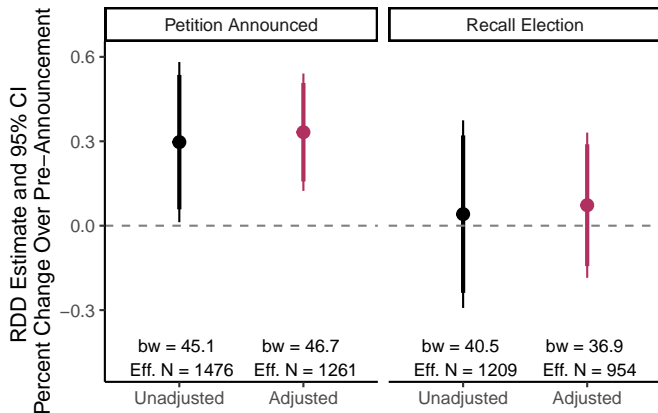
# Graphical Analysis



# RDit Estimates



# RDit Estimates



- Implies instantaneous **33% increase** in average sentence length on day petition is announced

# Robustness

# Prosecutors or Judges?

1. Prosecutors may file more severe charges.
  - Substitute statutory maximum for the top count at *arraignment* – not conviction
  - Restrict sample to cases arraigned before the critical events. Estimates

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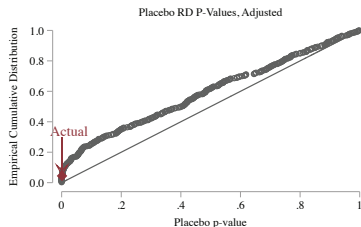
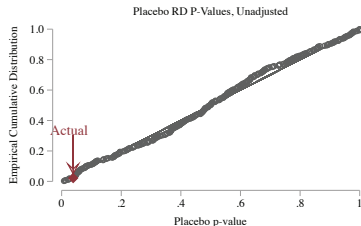
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  - Restrict sample to cases arraigned before the critical events. Estimates
2. Prosecutors might seek fewer charge reductions. Estimates
3. Prosecutors might otherwise alter the composition of convictions Estimates

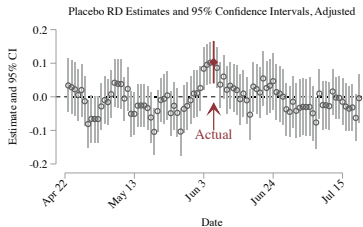
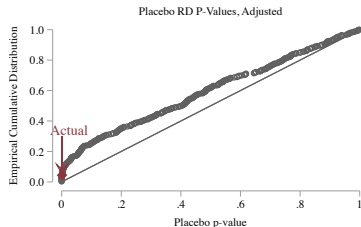
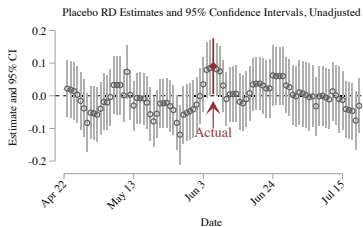
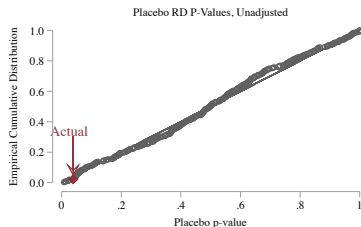


# Placebo tests: main effect



- June 6 p-value lower than 98.6% of placebos

# Placebo tests: main effect



- Only larger estimates are August 24/25
- RD using June 2 cutpoint small, statistically insignificant

## Effect heterogeneity: RDiT estimates

# Effect driven by violent crimes

	Sex Crimes		Other Violent Crimes		Nonviolent Crimes	
RD estimate	-0.033 (0.17)	-0.003 (0.048)	0.248 (0.098)	0.188 (0.056)	0.077 (0.048)	0.106 (0.035)
Left-side intercept	0.29 (0.133)	0.448 (0)	0.211 (0.046)	0.2 (0.031)	0.318 (0.028)	0.322 (0.022)
Bandwidth	65.5	33.9	43.8	38.1	46.5	51.6
Adjusted	N	Y	N	Y	N	Y
Effective observations	85	29	207	151	1,232	1,131

Estimates employ triangular kernel. Standard errors clustered at the county-charge level/judge-charge level

# No evidence for direct racial burden hypothesis

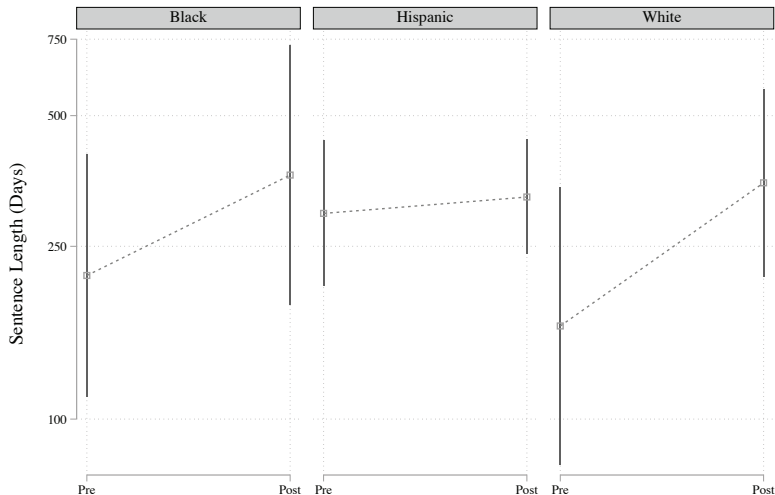
# No evidence for direct racial burden hypothesis

	Blacks		Petition Announced Hispanics		Whites	
RD estimate	0.136 (0.12)	0.24 (0.074)	0.098 (0.059)	0.062 (0.045)	0.206 (0.096)	0.545 (0.072)
Left-side intercept	0.355 (0.066)	0.37 (0.055)	0.302 (0.036)	0.31 (0.026)	0.247 (0.064)	0.225 (0.05)
Bandwidth	64.2	41.6	65.9	54.1	56	26.6
Adjusted	N	Y	N	Y	N	Y
Effective observations	304	136	689	516	326	126

Estimates employ triangular kernel. Standard errors clustered at the county-charge level/judge-charge level

# Assessing evidence of indirect racial burden

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# Cumulative Effects

# Substantive Impact

RD estimates are LATEs: causally identified, but of questionable substantive relevance

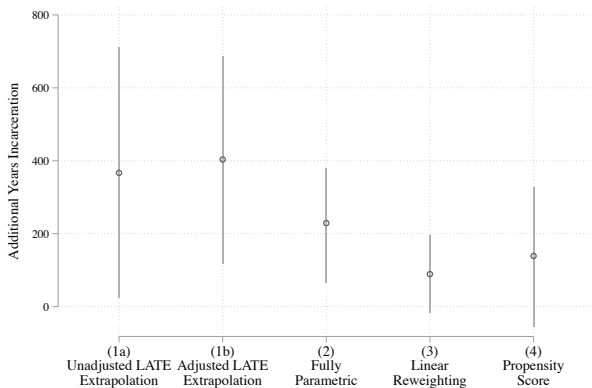
Assessing cumulative effects requires stronger assumptions.

Rather than extrapolate over a longer period, we restrict attention to 45 day window.

Three different extrapolation approaches:

- Assume LATE is the ATE (unadjusted and adjusted)
- Fully parametric
- Linear reweighting and propensity score estimators (see Angrist and Rokkanen 2015).

# Cumulative Effects



Using the most conservative 88 year estimate, total cost to five counties is \$6.25 million. Total effect statewide is 733 years or \$52.1 million.

# Conclusion

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Judges highly attuned to political environment and alter behavior accordingly

- Announcement of recall petition creates “new normal” in which recall now applies to lower court judges
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Indirect effects of direct democracy

- Persky recall aimed at sanctioning judge for sentence of affluent white defendant for felony sexual assault
- But once contemplated, impossible to control circumstances under which recall can be used to sanction lenient sentences

# Appendix

# Replication of Main Analysis Using Non-Normalized Sentence Length as Outcome

	Petition Announced		Recall Election	
RD estimate	172.941 (82.756)	194.651 (68.852)	-31.927 (147.211)	-41.616 (67.915)
Left-side intercept	401.934 (40.154)	393.664 (31.04)	602.326 (127.296)	600.891 (57.545)
Bandwidth	55.7	55.4	48.6	38
Judge fixed effects	N	Y	N	Y
Statute fixed effects	N	Y	N	Y
Effective observations	1777	1466	1461	966



# Replication of Main Analysis Restricted to Cases with One Count

	Petition Announced		Recall Election	
RD estimate	0.085 (0.042)	0.104 (0.035)	0.019 (0.056)	0.036 (0.048)
Left-side intercept	0.291 (0.029)	0.297 (0.025)	0.321 (0.046)	0.332 (0.040)
Bandwidth	47.509	45.807	40.836	37.490
Adjusted	N	Y	N	Y
Effective observations	1421	1140	1108	872

# Effect on Sentence Normed to Top Arraignment Count

	Petition Announced		Recall Election	
RD estimate	0.144 (0.056)	0.158 (0.043)	0.044 (0.059)	0.03 (0.043)
Left-side intercept	0.282 (0.027)	0.278 (0.022)	0.316 (0.047)	0.303 (0.035)
Bandwidth	46.7	48.2	39.1	34.8
Adjusted	N	Y	N	Y
Effective observations	1326	1180	1104	820

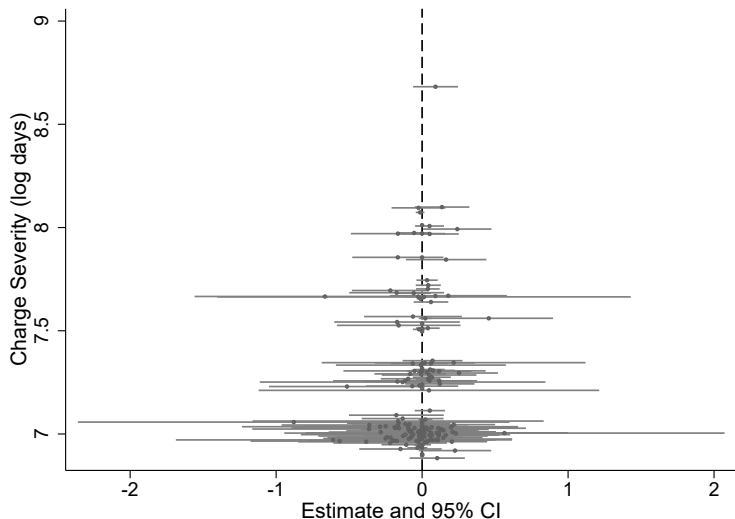
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# Effect on Charge Reductions

	Petition Announced		Recall Election	
B. Charge Reduction				
RD estimate	-0.022 (0.027)	-0.03 (0.019)	-0.017 (0.023)	-0.022 (0.022)
Left-side intercept	0.104 (0.022)	0.097 (0.015)	0.064 (0.018)	0.072 (0.018)
Bandwidth	45.6	45.4	45	39
Adjusted	N	Y	N	Y
Effective observations	1268	1088	1209	915

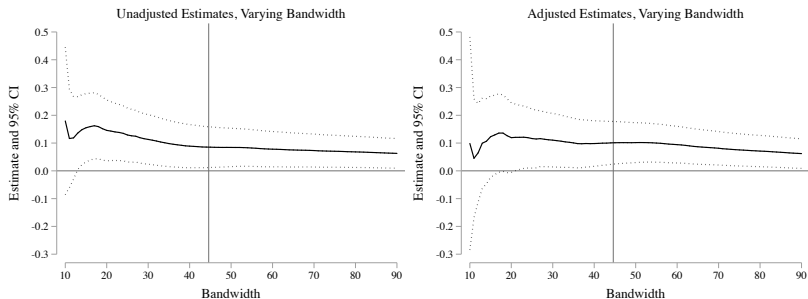
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# Charge-FE RD Estimates and 95% Confidence Intervals



*Each grey circle (and grey line) represents the RD estimate (and 95% confidence interval) associated with a unique crime's daily count.*

# RD Estimates Varying Bandwidth



*As in the main analysis, estimates employ triangular kernel, with standard errors clustered at the judge-charge level. The solid line denotes the MSE-optimal bandwidth.*

# Effect of Petition Announcement in Washington State: Placebo Test

