

Summer 2023

## **Prosecutorial Discretion: District Attorneys, Public Opinion, and the Localized Rule of Law**

Yu-Hsien Sung

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PROSECUTORIAL DISCRETION:  
DISTRICT ATTORNEYS, PUBLIC OPINION,  
AND THE LOCALIZED RULE OF LAW

by

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Submitted in Partial Fulfillment of the Requirements  
for the Degree of Doctor of Philosophy in  
Political Science  
College of Arts and Sciences  
University of South Carolina  
2023

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## DEDICATION

In memory of my mother, Liu, Hsiu-Tan (1959-2016).

## ACKNOWLEDGMENTS

This dissertation has benefited significantly from the wisdom, insight, and encouragement of many people. I am particularly indebted to my two mentors, Brad Epperly and Toby Heinrich. Brad was my first advisor at the University of South Carolina and the one who instilled in me a passion for law and politics. Even after he relocated to the west coast, Brad continued to be my advisor, pushing me to develop strong research questions and contributions. I particularly appreciate his constant encouragement to aim higher and be more ambitious. As an international student turned immigrant in the United States, I faced moments of self-doubt. I am grateful for Brad's consistent support and encouragement.

Toby took over the role as chair of my committee during the final stage of my dissertation. Even though the topic of my dissertation is not something in his wheelhouse, he devoted a significant amount of time to helping me prepare for a career in academia. He has patiently read numerous drafts, offering detailed comments and guidance. Furthermore, Toby has provided extensive assistance throughout the job market process. I couldn't have finished the final step without him.

If I were to describe their mentorship, I would say that they are the first to point out any mistakes I make and provide direct feedback on what needs to be changed. When I have good news, they are also the ones who show even more excitement than I do. And I genuinely appreciate their sincerity.

I would like to thank Jessica Schoenherr and Douglas Thompson. Jessica joined my committee late, but she played such an important role in my professional development in this field and provided me with valuable tips as a woman in academia.

Doug is a free-spirited scholar, and I have enjoyed many inspiring conversations with him. I would also like to express my gratitude to Katelyn Stauffer, Elizabeth Connors, Matthew Wilson, and Howard Liu for giving me feedback on my research at different stages and helping me prepare for the job market. Special thanks go to Kirk Randazzo, whose course provided me with a solid foundation of knowledge in judicial politics.

I have been fortunate to meet many good friends in graduate school. Jerry Lin and Yuleng Zeng have been very supportive. They always respond quickly to my questions whenever I reach out to them. William Christiansen and Judit Trunkos have generously shared their experiences with me when I was on the job market. I thank Kaitlin Engelbrecht for her kindness in offering me much help and encouragement. I also want to express my gratitude to Jiyeon Kang, Kuan-wu Chen, Sanghoon Park, Kelsey Martin-Morales, Emily Harmon, and others who have worked with me and dedicated their time. I thank my friend Young-Im Lee for her support during the writing stage of my dissertation. We had many online writing sessions together despite the time difference. Her support made me feel that I was not alone on this journey.

I thank my siblings, Kuan-yi and Chun-wei Sung. It is often said that the youngest child is more spoiled, which holds true in my case. My brother and sister were supportive of every decision I made. They are my most devoted cheerleaders. I owe a huge debt to my mother, Hsiu-tan Liu, she passed away in my first year of graduate school, but she has greatly impacted my life. Growing up, she made a tremendous effort to ensure that I received a good education in Taiwan to have more opportunities in the future. All of my accomplishments and strengths are a reflection of her dedication to my growth. This dissertation is dedicated to her.

## ABSTRACT

This dissertation addresses three fundamental questions regarding the politics of prosecutorial behavior. Specifically, it examines how the selectors of prosecutors influence prosecutorial decision-making under different selection methods, including election-based systems and appointment-based systems. By using a political responsiveness framework and utilizing empirical strategies, including an experiment and the construction of prosecutor policy position data, this study offers novel insights into the subject. First, I find that voters care about prosecutors' issue positions and rely on various cues to identify candidates whose policy positions align with their preferences, even in low-information elections. Second, elections show promise as a mechanism for holding elected prosecutors accountable, with a stronger connection between prosecutors and public preferences observed under high electoral pressure. Third, the governor's selection effect shapes the policy alignment between prosecutors and political elites in appointment-based systems.

# TABLE OF CONTENTS

DEDICATION . . . . .	iii
ACKNOWLEDGMENTS . . . . .	iv
ABSTRACT . . . . .	vi
LIST OF TABLES . . . . .	ix
LIST OF FIGURES . . . . .	xi
CHAPTER 1 INTRODUCTION . . . . .	1
1.1 A Responsiveness Theory of Prosecutorial Policy . . . . .	2
1.2 Plan of Dissertation . . . . .	7
CHAPTER 2 HOW U.S. VOTERS ELECT PROSECUTORS . . . . .	9
2.1 Changes in the Landscape of Prosecutorial Elections . . . . .	12
2.2 A Theory of Voter Choice in Prosecutorial Elections . . . . .	14
2.3 Survey design . . . . .	21
2.4 Results . . . . .	28
2.5 Discussion . . . . .	35
2.6 Conclusion . . . . .	37
CHAPTER 3 ARE PROSECUTORS RESPONSIVE TO PUBLIC PREFERENCES? . . . . .	40



3.1	Prosecutors, Public Opinion, and Responsiveness . . . . .	44
3.2	Theoretical Framework: Prosecutors and Policy Responsiveness . . .	46
3.3	Conceptualization of Prosecutors' Issue Positions . . . . .	50
3.4	Statistical Analysis Approach . . . . .	62
3.5	Conclusion . . . . .	70
CHAPTER 4 POLITICAL ELITES AND APPOINTED PROSECUTORS . . . . .		73
4.1	Political Appointment and Policy Responsiveness . . . . .	74
4.2	Cases: Appointed Prosecutors in New Jersey . . . . .	80
4.3	Data . . . . .	83
4.4	Descriptive Results . . . . .	86
4.5	Conclusion . . . . .	96
CHAPTER 5 CONCLUSION . . . . .		98
BIBLIOGRAPHY . . . . .		103
APPENDIX A ELECTING PROSECUTORS . . . . .		117
APPENDIX B PROSECUTORIAL RESPONSIVENESS . . . . .		137
APPENDIX C APPOINTED PROSECUTORS . . . . .		152

## LIST OF TABLES

Table 2.1	Random Assignment Of Groups . . . . .	22
Table 2.2	Overview of Treatment Attributes and Levels . . . . .	23
Table 3.1	Coders and DA offices in the second round of codings . . . . .	55
Table 3.2	Coded Positions on Decriminalization of Drugs and Incarceration . . . . .	58
Table 4.1	Appointed Prosecutors in New Jersey under Christie Administration in Year 2017 . . . . .	87
Table 4.2	Appointed Prosecutors in New Jersey under Murphy Administration in Year 2022 . . . . .	87
Table 4.3	Appointed Prosecutors in New Jersey under Murphy Administration in Year 2022 . . . . .	96
Table A.1	Number of rated profiles in each group . . . . .	118
Table A.2	Sample Characteristics . . . . .	119
Table A.3	Public Opinion on Sanctuary City and the Tough-on-Crime Approach	120
Table A.4	Policy Voting on the Tough-on-Crime Issue . . . . .	121
Table A.5	Policy Voting on Sanctuary City Issue . . . . .	121
Table A.6	Withholding Policy Information - Partisan Election . . . . .	122
Table A.7	Effect of Respondents' Tough-on-Crime Attitude on Candidate Vote	123
Table A.8	Effect of Respondents' Sanctuary City Attitude on Candidate Vote . . . . .	123
Table A.9	The Effect of Policy Information in High Information Environment by Strength of Partisanship (Tough-on-Crime Issue) . . . . .	130

Table A.10 The Effect of Policy Information in High Information Environ- ment by Strength of Partisanship (Sanctuary City Issue) . . . . .	131
Table A.11 The Effect of Candidate Gender and Race Cues: tough-on-crime issue	133
Table A.12 The Effect of Candidate Gender and Race Cues . . . . .	133
Table A.13 Gender and Race Proportions by Treatment Groups (unweighted)	135
Table A.14 Policy Voting on the Tough-on-Crime Issue . . . . .	136
Table A.15 Policy Voting on Sanctuary City Issue . . . . .	136
Table B.1 Predicted accuracy rate by county . . . . .	138
Table B.2 Coders and Offices in the second round of codings by State-a . . .	139
Table B.3 Coders and Offices in the second round of codings by State-b . . .	140
Table B.4 Percentage of Chief Prosecutors that Mentioned Drug Policies by State . . . . .	144
Table B.5 Public Preference Effect on Prosecutors' Drug Mention . . . . .	145
Table B.6 Prosecutors' Position on Drugs Decriminalization . . . . .	146
Table B.7 Prosecutors' Position on Approaches to Punishment . . . . .	147
Table C.1 Appointment Rules for Local Prosecutors . . . . .	153
Table C.2 Removal Rules for Local Prosecutors . . . . .	153

## LIST OF FIGURES

Figure 2.1	Policy Congruence Effect In High Information Environment . . .	30
Figure 2.2	Voting In Low Information Partisan Elections . . . . .	32
Figure 2.3	Voting In Low Information Nonpartisan Elections . . . . .	34
Figure 3.1	The coding process of drugs policy positions . . . . .	53
Figure 3.2	Inter-coder Agreements on Drug Decriminalization . . . . .	60
Figure 3.3	Inter-coder Agreements on Approach to Incarceration . . . . .	60
Figure 3.4	Probability of Prosecutors' Mentioning of Drug Policy By Electoral Pressure . . . . .	65
Figure 3.5	Probability of Prosecutors' Mentioning of Drug Policy By Issue Importance . . . . .	66
Figure 3.6	Prosecutors' Position on Drug Decriminalization . . . . .	67
Figure 3.7	Predicted Probability of Prosecutors' Position on Approach to Punishment . . . . .	69
Figure A.1	Profile Sample 1 . . . . .	117
Figure A.2	Profile Sample 2 . . . . .	117
Figure A.3	Profile Sample 3 . . . . .	117
Figure A.4	Profile Sample 4 . . . . .	117
Figure A.5	Group 1 - Low Information Nonpartisan Election . . . . .	127
Figure A.6	Group 2 - Low Information Partisan Election . . . . .	127
Figure A.7	Group 3 - High Information Nonpartisan Election . . . . .	127

Figure A.8	Group 4 - High Information Partisan Election . . . . .	127
Figure A.9	The Effect of Policy Information by Strength of Partisanship . . .	129
Figure A.10	The Effect of Policy Information: adding Independent Respondents	132
Figure A.11	The Effect of Candidate Gender and Race Cues in Low Infor- mation Nonpartisan Election . . . . .	134
Figure A.12	Subgroup Differences . . . . .	135
Figure B.1	Inter-Coders Agreements on Drug Decriminalization . . . . .	142
Figure B.2	Inter-Coders Agreements on Approach to Incarceration . . . . .	142
Figure B.3	Sample Of The Second Round Coding Questions . . . . .	143
Figure B.4	Moderation Effects On Prosecutors' Drug Policy Responsive- ness I . . . . .	148
Figure B.5	Moderation Effects On Prosecutors' Drug Policy Responsive- ness II . . . . .	149
Figure B.6	Moderation Effects By Issue Importance . . . . .	150
Figure B.7	Moderation Effects By Electoral Pressure . . . . .	151

# CHAPTER 1

## INTRODUCTION

In 2017, as President Trump advocated for a greater criminalization of illegal immigration, some U.S. attorneys have openly asserted that their offices will expand their handling of illegal-immigration issues. However, other prosecutors have been quietly helping protect illegal immigrants from Trump's proposed policy. A handful of district attorneys, especially prosecutors from "sanctuary cities," are finding ways to shield from deportation many illegal immigrants who are also low-level offenders for unrelated law violations. Similar preemption conflicts have emerged in the United States regarding other criminal justice policies; moreover, notably drug enforcement marked variation exists in how different prosecutorial offices structure enforcement. If the law is the same, why do we see different law enforcement actors react differently to it?

The answer lies in the discretionary power that prosecutors possess and the different incentives that guide their behavior. Prosecutors enjoy enormous discretion in their daily practices. As the gatekeepers of criminal justice, they have the power to decide what and whom to prosecute as well as the power to withhold prosecution. The choices prosecutors make fundamentally influence how the law is enforced in societies and whether the state treats every accused person equally. Yet so far, we have a limited understanding of the factors affecting prosecutorial decisions.

This intersection between discretionary decisions and the rule of law practices motivates this dissertation. Building on a principal-agent framework, this dissertation develops two models of how prosecutors exercise discretion when pursuing policy

goals and generate support from their principals in ways that vary across selections. Specifically, it examines principals' policy preferences and prosecutors' subsequent choices as reflected in two types of district-level interactions: first, between voters and elected prosecutors in election-based systems and second, between governors and appointed prosecutors in appointment-based systems.

This research addresses three fundamental questions about discretionary decisions and the rule of law practices. First, what motivates prosecutors to exercise discretion in a specific direction? Second, how is policy variation influenced by prosecutorial selection methods, be they election or appointment? Third, given that over 98% of district attorneys are popularly elected, what do we know about how voters evaluate them?

For the first two questions, this dissertation aims to explain why criminal justice policies vary, ranging from punitive (e.g., long sentences) to corrective (e.g., drug treatment and diversion). It argues that prosecutorial decisions are driven by prosecutors' principal's preferences. Further, the degree to which prosecutorial decisions are responsive to principals rests on political and institutional contexts. As I noted above, I develop two models to capture two types of interactions (those between voters and prosecutors in election-based systems and those between elites and prosecutors in appointment-based systems). To test these two interactions, I collect original data on district-level preferences and district attorneys' policy positions. For the third question, I use a conjoint experiment identifying the role that prosecutorial candidates' attributes play in the support or opposition that candidates attract from the public.

## 1.1 A RESPONSIVENESS THEORY OF PROSECUTORIAL POLICY

As noted, I build on a principal-agent framework of prosecutor-voter relationships in election-based systems and prosecutor-governor relationships in appointment-based systems. My framework has two major actors: prosecutors and the people who put

them in office. About these actors, we can make three reasonable assumptions: (1) prosecutors wish to be in office; (2) principals can determine who is in office; and (3) principals like to see their own policy positions reflected in their agents. From these assumptions, we can conclude that the desire to be in office motivates prosecutors to be mindful of their principals' preferences and to exhibit a fair degree of policy responsiveness in this direction.

However, prosecutorial selection institutions determine which principal they respond to. There are two primary prosecutorial selection methods in the United States: election and appointment. Each system generates a pair of principal-agent relationships and has its corresponding design of structuring incentives for the agents, conditioning the extent to which prosecutors are responsive to their principals. I, therefore, develop an electoral-effect model for examining the voter-prosecutor relationship in election-based systems and a leadership-effect model for examining the prosecutors-governor relationship in appointment-based systems.

#### 1.1.1 ELECTORAL-EFFECT MODEL

In election-based systems, the main actors are voters and prosecutors. As democratic theory suggests, elections are the means by which citizens exercise formal control over who holds office. Hence, elections should serve as an important device for producing public policies strongly representative of constituents' hopes. The desire to win an election and retain office has long been established as a powerful contributor to elected officials' responsiveness to public moods (Mayhew, 1974). However, the extent to which the public can keep elected prosecutors responsive varies across political and institutional settings. For instance, strong issue salience boosts politicians' access to information about public preference, thus strengthening their responsiveness to mass opinion (Bartels, 1991; Baum and Klein, 2007). As for prosecutorial-policy



responsiveness, institutions can limit it by regulating candidates' campaigns and can promote it by developing citizen-initiative programs (Wright, 2014).

To properly capture the linkage between public-policy preferences and the policy responsiveness of elected prosecutors, this research draws on the existing literature on constituency effects and judicial elections, adapted to the context of prosecutorial elections. In this way, this study specifically examines under what conditions electoral forces can enhance or retard prosecutorial responsiveness. It argues that the public significantly influences prosecutorial policy in election systems but in a contingent manner. Prosecutorial responsiveness is higher in districts where both elections are competitive, and issues are salient. Moreover, the presence of campaign restrictions attenuates public influence.

#### 1.1.2 LEADERSHIP-EFFECT MODEL

In appointment-based systems, the main actors are elites (e.g., governors) and prosecutors. The outcome of interest in the leadership-effect model remains the conformity of prosecutorial policy to the preferences of prosecutors' principals, and this research models this responsiveness as a function of the principals' preferences and the design of both screening and controlling mechanisms.

Selection processes constitute the first step by which principals can control agents (Gailmard, 2012*a*). In this step, governors try to screen candidates carefully in order to select agents who are most likely to faithfully carry out their goals. The second step by which principals can enhance the compliance of agents is the controlling mechanism. Principals or chief state attorneys can monitor agents by requiring them to regularly report on their activities and by enlisting third parties who, having a stake in the professional conduct of agents, monitor them on behalf of the principals (McCubbins and Schwartz, 1984). This mechanism has a sanctioning component by which principals can oppose agents. The sanctioning component has two important

sub-components: first, principals can terminate their relationship with an agent and search for a new one; second, principals can punish an agent for a significant failure (Perry Jr, 1998). As only four US states (Alaska, Connecticut, Delaware, and New Jersey) use appointments, I take a qualitative approach to identifying the screening and the controlling mechanisms. In short, I argue that the extent to which the policies of appointed prosecutors align with the preferences of the corresponding principals depends on how rigorous the relevant screening and controlling mechanisms are.

### 1.1.3 VOTER PREFERENCES FOR PROSECUTORS' ATTRIBUTES

In the first two sections, I focus on prosecutors' policy responsiveness. In this section, I focus on voter preferences for prosecutors' attributes. Unique to the United States, the institution of elected prosecutors allows citizens to elect their prosecutors. Scholars widely consider prosecutorial elections an empty exercise in politicking and vote-casting, as incumbents rarely face a challenger. (Wright, 2008). For this reason, voter preferences have been largely absent from academic analyses. To investigate how voters elect local prosecutors, I focus on three vital factors: (1) prosecutors' policy positions, (2) prosecutors' personal attributes, (3) and prosecutorial partisanship.

#### POLICY POSITIONS

A long-held assumption has been that voters vote for prosecutors who promise to be tough on crime. Over the past thirty years, the persistent increase in incarceration in the United States seems to confirm this conventional wisdom (Beale, 2003; Enns, 2014). Consequently, America's two main political parties have, for decades, engaged in a race to the bottom and pursued increasingly punitive criminal-justices policies (Shjarback and Young, 2018).

According to some scholars, public preferences regarding criminal-justice policies have changed in recent years. These scholars find that many long-serving incumbents

are being unseated by a new breed of prosecutors advocating progressive policies and argue that this trend points to a changing political landscape for elected prosecutors (Sklansky, 2016). The electoral victories of these prosecutors suggest a shifting paradigm.

#### PERSONAL ATTRIBUTES

In addition to policy positions, personal attributes, such as experience and office performance, play a significant role in prosecutor elections. Although studies on prosecutor elections are rare, Wright's 2008 study constitutes foundational work in shaping our understanding of prosecutorial elections. As Wright (2008) observes, incumbent experience and candidate qualifications are the two most common campaign themes in prosecutorial elections. Empirically, the incumbency of a prosecutor is a constant advantage during re-elections. According to data from the 2007 National Survey of Prosecutors,<sup>1</sup> the average tenure of a chief prosecutor was nine years and 38% of chief prosecutors had been in office for more than 10 years. The long incumbency suggests that voters prefer candidates who seem to be more experienced.

Performance in office is another common theme in prosecutorial campaigns. Wright (2008) contends that performance-related claims made by prosecutorial candidates tend to center on the quantity of cases, such as the backlog of criminal cases, and the efficiency of the processing of cases. Such claims can serve as a measure of prosecutor quality, signaling how well a prosecutor fulfills their professional duties. Similarly, conviction rates are another measure that may convey candidates' competence at elections.

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<sup>1</sup>The 2007 survey data come from the latest nationwide survey on file at the Bureau of Justice Statistics, which plans to launch a new wave of national surveys between late 2020 and early 2021.

## THE METHODS OF PROSECUTORIAL ELECTIONS AND PARTISAN CUES

Currently, there are two major types of prosecutorial elections: partisan and non-partisan. Roughly 75% of US states use partisan elections in selecting prosecutors. Election methods have a partisanship effect on the decision-making of voters. Scholars cite political partisanship as a central factor determining voter decision-making during elections (Campbell et al., 1980; Green, Palmquist and Schickler, 2004). McDermott (1997) and others observe that partisan cues are especially effective in elections where voters have limited information. Unlike presidential and gubernatorial elections, prosecutorial elections usually entail small-scale campaigns characterized by the dissemination of little information. Interestingly, in states that hold partisan elections, voters likely assign considerable weight to partisan considerations. However, in states with nonpartisan elections, voters may be unable to identify the candidates' party affiliations, with the result that partisanship may play a smaller role in the elections than would otherwise be the case (Baum and Klein, 2007). Given these findings, I examine how election methods affect the relationship between voters and prosecutorial candidates by conducting a survey in which I assign respondents to either partisan or nonpartisan settings to examine how voter preferences vary across different electoral rules.

### 1.2 PLAN OF DISSERTATION

Since most states use election-based systems, I begin this dissertation by addressing how voters select prosecutors. In Chapter 2, I use a conjoint experiment to examine how voters evaluate prosecutors in varying information environments. I manipulate the availability of candidate information to respondents, simulating scenarios that resemble high-profile and low-profile elections as well as partisan and nonpartisan elections. I find that when in a high information environment, voters will rationally

use candidate-specific policy cues to update their beliefs about candidates and support candidates whose policy outlook aligns most with their own when in a high information environment. Without policy information, voters make inferences about candidates' policy leanings by considering their background attributes.

In Chapter 3, I investigate whether prosecutors are responsive to voters. To do so, I rely on extensive data collection regarding local prosecutors' issue positions on drugs and the corresponding public preferences at the county level. The findings of my study offer a promising perspective on elections as a means of holding prosecutors accountable, highlighting the influence of electoral pressure on responsiveness. Specifically, I find that regarding the issue of drug decriminalization, prosecutors are more likely to address their stance on this topic and align their position with local preferences when they are chosen through contested elections.

In Chapter 4, I focus on examining the connection between political elites and appointed prosecutors. This chapter emphasizes that political elites' screening and selection process is the main factor influencing the policy alignment between governors and appointed prosecutors. Furthermore, my findings indicate that incumbent prosecutors are unlikely to adjust their issue positions when new leadership assumes office. This finding suggests that policy alignment in appointed-based systems is shaped by the top-down selection effect rather than prosecutors being attentive to the preferences of political elites.

Chapter 5 summarizes this dissertation, which examines various aspects of prosecutorial behavior, including voters' perspectives, prosecutors themselves, and the relationship between governors and appointed prosecutors. By exploring these different topics, I build our understanding of the factors that influence prosecutorial behavior.

## CHAPTER 2

### HOW U.S. VOTERS ELECT PROSECUTORS

Prosecutors<sup>1</sup> in the United States possess broad discretion in judicial processes, including deciding the nature of charges brought against defendants and whether to engage in plea bargaining (Davis, 2008). Even though prosecutors lack the formal power to make a sentencing decision, they control the information that flows to judges (Tonry, 2012). Because of prosecutors' pivotal influence, their policy positions are an important component determining rule of law at the local level. Take the issue of U.S. mass incarceration as an example: prosecutors who pursue punitive approaches strive for higher conviction rates and harsher sentencing (Arora, 2018), whereas reform-minded prosecutors pursue reducing low-level nonviolent prosecutions and incarceration (Green and Roiphe, 2020). The decisions prosecutors in the U.S. make have significant consequences for the American criminal justice system. Hence, understanding the selection of prosecutors is critical.

However, despite prosecutors playing a critical role in shaping the criminal justice system, research on U.S. prosecutorial elections suggests that prosecutorial campaigns are apolitical and candidates' policy positions are inconsequential in elections. Local prosecutors usually run unopposed, and candidates rarely announce their policy priorities to voters during campaigns (Wright, 2008). Even when prosecutors do signal their political leanings, policy stances often remain unknown. Both Democratic and Republican prosecutors tend to cultivate tough-on-crime reputations, as the conven-

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<sup>1</sup>Elected prosecutors go by many names. They are referred to as district attorneys, county attorneys, prosecuting attorneys, solicitors, states' attorneys, and commonwealth attorneys. In this paper, I use the term prosecutor to refer to each member of this category of government official.

tional view suggests the public favors punitiveness (Gordon and Huber, 2002). These arguments have long been the dominant view regarding prosecutorial elections in the United States.

Since about 2010, the pattern seems to have changed. A group of reform-oriented prosecutors have steered their campaigns away from traditional law-and-order posturing by proposing restorative programs and by criticizing racial inequities in the criminal justice system (Davis, 2019*a*; Sklansky, 2016; Wright, Yates and Hessick, 2021*a*). The emergence of issue-based campaigns and the victories of new-style prosecutors suggest that wide swaths of the voting public actually care about prosecutors' policy stances. Despite such anecdotal evidence, we do not know the extent to which the public evaluates candidates on the basis of their policy positions.

To better understand voters' preferences for prosecutors, I develop a framework which allows for the possibility that policy positions play an important role in guiding voters' choice of prosecutors. I begin with the assumption that voters are rational actors in politics who vote for candidates they believe will provide them with the highest expected utility. In my context, this means voting for prosecutors predicted to pursue the policies closest to one's own liking. However, the extent to which voters can infer candidates' policy positions depends on the information environment that voters encounter. I divide information environments into high and low types. A high information environment refers to elections where the environment transmits issue-based information, while a low information environment refers to elections where these policy cues are absent.

I argue that voters will rationally use candidate-specific policy cues to update their beliefs about candidates and support candidates whose policy outlook aligns most with their own when in a high information environment. Without policy information, I argue that voters make inferences about candidates' policy leanings by considering their background attributes. Specifically, in low information partisan elections, I

expect voters will resort to party affiliations as the most informative cue because a candidate's status as Democrat or Republican offers considerable insight into their likely policy positions if elected. Voters may associate Democratic candidates with a liberal position on criminal justice issues and Republicans with a conservative stance. Finally, in low information nonpartisan elections, I expect voters to turn to gender and race as heuristics to infer candidates' policy positions, as research suggests that voters associate women and Black candidates with liberal policy preferences (McDermott, 1997, 1998).

To test my arguments, I conducted a conjoint survey experiment in April 2021 in which I presented 1,849 American adults with ten pairs of hypothetical profiles and asked them which candidate would be preferable as a district attorney. To manipulate the information environments the respondents might face, I randomly assigned the respondents to one of four settings: no policy information in a nonpartisan election; no policy information in a partisan election; policy information in a nonpartisan election; and policy information in a partisan election. With this empirical strategy, I can examine whether or not the effect of candidates' characteristics on voter choices varies as information environments change.

I report three central findings. First, when given information about prosecutors' policy platforms, candidates obtain more support from policy congruent respondents relative to incongruent respondents. Notably, partisanship does not mute this policy congruence effect: respondents who identify as Republican yet agree with a Democratic candidate's policy platform are also associated with increased voting probability for Democratic candidates. Second, when candidate policy information is unavailable, I find respondents use party affiliation to infer candidates' policy stances and choose likely policy congruent candidates. Third, I find no evidence that respondents apply traditional gender and racial cues when evaluating prosecutorial candidates in the two policy issues I examine.



This study contributes to the research on voting behavior and prosecutorial elections in three ways. First, it provides a framework for examining how information guides voters’ cue-taking. This advances our understanding of how voters elect prosecutors in partisan and nonpartisan elections as well as in high and low information environments. Second, this study is one of the first to examine voter preferences in prosecutorial elections. In so doing, it reinforces the importance of policy congruence in this highly consequential yet often overlooked election context. Third, this study provides new insights into voting behavior in prosecutorial elections. As the analysis shows, respondents differ in their criminal justice views, and they care about the proximity of prosecutors’ policy positions when such information is available. These findings demonstrate there is potential benefit in increased information provided to voters in prosecutorial elections, necessitating the reconsideration of past views of electoral forces driving tough-on-crime stances for prosecutors.

## 2.1 CHANGES IN THE LANDSCAPE OF PROSECUTORIAL ELECTIONS

Traditionally, prosecutorial elections were low profile affairs in which voters did not have significant information about candidates and their issue positions. During campaigns, prosecutorial candidates seldom talked about their prioritization or implementation of certain policies; rather, campaign rhetoric tended to focus on personal qualifications or the sheer number of cases processed (Wright, 2008). For this reason, voters generally had limited information with which they could evaluate prosecutorial candidates.

However, the contestation of prosecutorial elections has gradually changed over time (Hessick and Morse, 2020; Wright, Yates and Hessick, 2021*a*). While in the past, incumbent prosecutors often ran unopposed, Hessick and Morse (2020) show a changing dynamic in prosecutorial elections—current prosecutors faced challengers upwards of 30% of the time in the 2014 and 2016 election cycles, a departure from

trends measured by Wright (2008). Even though incumbents still win the overwhelming majority of their elections, a group of reform-oriented prosecutors has unseated long-serving incumbents, challenging the conventional view that incumbents always win<sup>2</sup>(Sklansky, 2016). It should be noted, these changes are more likely to appear in high-population districts (Hessick and Morse, 2020; Wright, Yates and Hessick, 2021*a*).

Since about 2010, advocacy groups have begun to endorse and criticize prosecutorial candidates for their positions on criminal justice policies as momentum builds for criminal justice reform. For example, in 2018, the American Civil Liberties Union (ACLU) launched the "Vote Smart Justice" and "Meet your DA" initiatives, which are nonpartisan voter-education programs providing voters with state-tailored information regarding candidates' stances on key issues. Prosecutorial candidates' campaigns also began to emphasize candidate differences rather than focusing on the strength of each candidate's tough-on-crime stance. One visible change was the emergence of reform-oriented prosecutors bearing the "progressive" label and campaigning on using diversion and treatment programs as alternatives to incarceration (Davis, 2019*a*). As such, the visibility of prosecutorial election contests has increased in US counties over the past decade.

The emergence of issue-based campaigns has changed the information environment in some prosecutorial contests over time. One question that follows is how the increase in policy-related information influences electoral behavior: Does the new availability of policy information matter for vote choice relative to other available cues, such as party identity? Existing studies provide little insight into whether candidates who adopt a reform-minded platform influence voters' choices at the ballot box, nor do

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<sup>2</sup>See Sklansky (2016) for detailed descriptions about progressive prosecutors scoring high-profile victories since 2010.

we know whether an increase in policy information about candidates helps voters identify a like-minded candidate in prosecutorial elections.

## 2.2 A THEORY OF VOTER CHOICE IN PROSECUTORIAL ELECTIONS

To examine how vote choices for prosecutors varies as the information environment changes, I turn to research on cue-taking and low information elections. Studies consistently demonstrate a strong connection between voting behavior and the information environments in which voters evaluate political candidates. A high information environment can increase citizens' political knowledge (Carpini, Keeter and Kenamer, 1994; Jerit, Barabas and Bolsen, 2006) and political participation (Schulhofer-Wohl and Garrido, 2013); whereas low information environments consistently result in low participation and ballot roll-off (Hall, 2007). Information environments also influence voters' use of cues. Voters pay attention to candidates' issue positions and reduce their reliance on partisan cues when candidate-specific information is available (Peterson, 2017). When unable to determine a candidate's policy preference, voters use shortcuts as a substitute for policy-related information (Popkin, 1991; Sniderman, Brody and Tetlock, 1993).

I assume that citizens are rational actors when deciding which candidate to support in elections. That is, citizens vote for the candidates they believe will provide them with the highest expected utility. In my context, this means voting for a prosecutor who a voter predicts will pursue policies that are closest to their own policy preferences. However, the extent to which citizens learn about candidates' policy positions depends on the information environment. When election campaigns transmit candidate-specific policy information, voters can simply compare candidates' policy stances, under the assumption that rhetoric and eventual policies will correspond

reasonably well.<sup>3</sup> When information is scarce, voters rely on cues that help them predict what candidates might do when they are in office. In this study, I consider the information environments as either high or low information environments.

### 2.2.1 VOTER CHOICE IN HIGH INFORMATION ENVIRONMENT

A high information environment refers to elections where campaigns transmit ample candidate-specific information that voters can use to evaluate candidates. In these elections, political donations tend to pour into the races, resulting in extensive TV campaign ads and news coverage, making candidate-specific information more accessible and readily observable to voters. Among the available information, I expect candidates' policy positions to play the most important role in voters' evaluation because they are best guides for voters to guess how the candidates would behave if they were in office. Using this information, voters calculate how each candidates' issue position would affect their expected utilities, voting for the candidate that they expect to deliver policies closest to their own preferences. The empirical implication of this is that we would observe that policy congruence plays a key role in shaping voters' candidate choices in a high information environment.

The assumption about the role of policy in voting decision is well-supported in the literature. Historically, we have seen the significant influence of abortion attitudes on presidential elections (Abramowitz, 1995) and LGBTQ attitudes on presidential approval (Tesler, 2015). In the US judicial system, there is a similar connection between the public's policy preferences and a political candidate's stance on crime (Brace and Hall, 1997; Hall, 1995, 2001), which translates to the observed connection between public punitiveness and prosecutor's decisions. Scholars find that local punitiveness

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<sup>3</sup>Politicians have electoral incentives to make sincere campaign promises and follow them once in office (Sellers, 1998). Even though voters may not closely monitor whether politicians carry out their campaign appeals, a future challenger can publicize the disregarded promises in the next election. Thus, candidates tend to avoid creating such gaps between words and deeds. Research on candidates for U.S. Congress supports this idea (Sulkin, 2009).

strongly influences federal prosecutors' decisions regarding whether to pursue violent crime charges, in turn suggesting that prosecutors are also concerned about public issue-based evaluation (Boldt and Boyd, 2018). Given that federal prosecutors are selected through an appointment system, Boldt and Boyd's findings further imply that local punitiveness might have an even stronger effect in contexts where prosecutors are elected (Gordon and Huber, 2002).

### 2.2.2 VOTER CHOICE IN LOW INFORMATION ENVIRONMENT

#### PARTISAN CUE IN LOW INFORMATION PARTISAN ELECTIONS

High information environments are scarce, however, as most elections in the United States take place in low information environments characterized by little media attention and less campaign spending. In such contexts, voters usually go to the polls without much knowledge about candidates' policies. In these elections, I expect that voters engage in cue-taking to infer candidates' issue positions. Among the available cues, I argue that candidates' party affiliation on the ballot is a powerful shortcut to policy position (Popkin, 1991; Rahn, 1993). A politician's status as a Democrat or a Republican offers considerable insight into their likely policy positions if elected (Grynaviski, 2010). Therefore, voters can rely on partisan cues to guess candidates' policy leanings in low information settings. The positive relationship between candidate-voter party congruence has been demonstrated in a variety of low information elections. For example, studies on state judicial elections consistently show that, party affiliation is the most important cue in partisan elections (Hall, 2007; Klein and Baum, 2001; Schaffner and Streb, 2002). Access to judicial candidates' party labels increases participation in judicial elections (Hall, 2007) and helps voters select the candidate who is most aligned with their own party attachment and policy interests (Burnett and Tiede, 2015).

Given that some states use nonpartisan ballots for their local elections, low information environments in which partisan cues and policy information are both missing also exist. Here, I expect voters make inferences about candidates' policy positions mainly via gender and race cues—both of which can be derived from candidates' names on the ballot itself.

Voters apply their gender views to respective candidates through stereotyping (Sanbonmatsu, 2002). Women are often perceived to possess feminine-coded traits, such as being warm and caring and therefore better at handling "compassion" issues, such as education, welfare, and women rights. In contrast, men are often perceived to possess masculine-coded traits, such as being tough and therefore better at handling crime, foreign policy, and defense issues (Alexander and Andersen 1991; Leeper 1990; Mahajan 1986). Furthermore, women are also perceived to be more liberal than men (Koch, 2002; McDermott, 1997). These gender stereotypes influence voting behaviors (Badas and Stauffer, 2019; Sanbonmatsu, 2002) and even operate within parties. Voters see Democratic women as more liberal than Democratic men, and Republican women as less conservative than Republican men (King and Matland, 2003; Sanbonmatsu and Dolan, 2009).

Similarly, ballot information may reveal their race, and this can also operate as a heuristic to signal candidates' ideological leanings. Voters tend to perceive Black candidates as more compassionate towards disadvantaged groups and minorities (Sigelman et al., 1995), and Black candidates tend to fare better among more liberal voters and worse among conservative voters (McDermott, 1998). While studies on women and minority prosecutors are sparse, recent scholarship finds that women prosecutors and minority prosecutors tend to be more lenient. Gunderson (2022) suggests that women prosecutors are associated with lower women and Black jail populations and lower incarceration rates; similarly, Black prosecutors are associated with fewer felony

closures and convictions. To simplify, we should expect that voters tend to associate women and Black candidates with liberal policies.

Overall, using these candidate demographic attributes to infer policy positions enables voters to make guesses about which candidate is in line with their policy preferences despite having minimal knowledge about the candidates.

### 2.2.3 TESTABLE EMPIRICAL IMPLICATIONS

I test respondents' cue-taking in different information environments using two policy issues that were relevant at the time of the study: tough-on-crime and sanctuary city policies. I first introduce the two issues before stating my testable hypotheses.

#### TOUGH-ON-CRIME POLICIES

The first issue area, tough-on-crime, refers to a punitive approach to punishment that emphasizes the use of incarceration for more offenders for longer periods to prevent crime. After President Nixon announced the "war on drugs" in the 1970s, the U.S. implemented new policies that increased the incarceration rate for nonviolent offenses and intensified the severity of criminal penalties (Western, 2006; Western, Travis and Redburn, 2014). Over the past four decades, the tough-on-crime platforms have repeatedly been considered a winning election strategy (Beckett, 1999; Marion, 1994). However, as I discussed earlier, tough-on-crime policies have become more controversial since 2010.

In response to these concerns, a call for change has appeared in prosecutorial elections. Since about 2016, a new cohort of progressive prosecutors has emerged who oppose mass incarceration and support drug-treatment programs in lieu of long sentences for possession charges. Even though most progressive prosecutors are Democrats, there are a few Republican prosecutors who also adopt reform-orientated platforms (Greene, 2020). The emergence of prosecutors with reform-oriented rhetoric

from both parties makes the tough-on-crime issue a perfect policy issue to test how prosecutors with varying policy stances might influence vote choice.

#### SANCTUARY CITY POLICIES

The second issue is sanctuary cities. The term refers to the states and localities that have laws and regulations that place limits on their assistance to Immigration and Customs Enforcement (ICE) seeking to apprehend and deport unauthorized immigrants (Garcia, 2009). Though sanctuary cities are not typically a criminal justice issue, this policy area is worth studying for three main reasons I outline below.

First, the issue of prosecuting immigrants is a salient issue in the criminal justice system. Scholars and social activists have noticed that local prosecutors' ability to trigger deportation allows prosecutors to wield enormous prosecutorial power over immigration outcomes (Eagly, 2017). Prosecutors' positions on the sanctuary city issue are therefore closely related to the broader policy question of how non-citizens are treated in the criminal justice system.

Second, the unique role that local prosecutors play in American immigration enforcement pushes some prosecutors to take a policy stance on the sanctuary city issue. For example, during the Trump administration, thirty-three current and former prosecutors released a statement arguing that anti-sanctuary city policy threatens community trust and endangers public safety (Georgetown Law's Institute, 2018). Many then-incumbent prosecutors instructed their assistant prosecutors to use discretion when dealing with cases involving immigrants to avoid harsh consequences like deportation (Fenton, 2017). Furthermore, in districts with sizable immigrant populations, it is also common for prosecutors to address their policy stance on the sanctuary city issue.<sup>4</sup>

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<sup>4</sup>For example, in 2008, Cyrus Vance, the Democratic candidate for Manhattan district attorney, announced a new plan for immigrant protection during the campaign. The same year, Patricia



Third, public preferences regarding sanctuary cities are greatly divided (Hajnal and Rivera, 2014; Miller and Schofield, 2008). This division, which falls along party lines, is also a division within the two parties. For example, when respondents to the 2016 CCES were asked whether the U.S government should identify and deport illegal immigrants, 22% of democrats said "yes" with 78% saying "no." Conversely, 66% of Republicans said "yes," while 34% said "no," indicating more than strictly partisan division. This raises the possibility of testing the relative effect of policy congruency over partisanship in determining vote choice.

#### 2.2.4 HYPOTHESES

My theory predicts that voters' use of cues varies with information environments. In high information environments, I expect that policy congruence plays an important role in candidate choice. More specifically, I test the following hypotheses:

- **High Information Environments**

- Tough-on-crime candidates are associated with increased support from tough-on-crime respondents compared to pro-reform respondents.
- Pro-reform candidates are associated with increased support from pro-reform respondents compared to tough-on-crime respondents.
- Pro-sanctuary city candidates are associated with increased support from pro-sanctuary city respondents compared to oppose-sanctuary city respondents.
- Oppose-sanctuary city candidates are associated with increased support from oppose-sanctuary city respondents compared to pro-sanctuary city respondents.

When information regarding candidates' policy positions is unavailable, I expect respondents to rely on candidate party affiliations to infer policy stances. I consider

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Lykos, the Republican candidate for Harris County (Texas) district attorney, took a tough stance on illegal immigration in her campaign.

that voters should generally consider Republican candidates to be conservative on the tough-on-crime issue and Democratic candidates to be liberal, mirroring results found in existing studies (Arora, 2018; Sunstein et al., 2007). As for the sanctuary city issue, voters should regard Republican candidates to be conservative on immigration policies and Democratic candidates to be liberal (Sides, Tesler and Vavreck, 2017, 2018). Therefore, when respondents use party labels to predict candidates' policy stances, tough-on-crime and anti-sanctuary respondents would prefer Republican candidates more than a pro-reform and pro-sanctuary city respondent, respectively.

- **Low Information Partisan Election**

- Republican candidates are associated with increased support from tough-on-crime respondents compared to pro-reform respondents.
- Democratic candidates are associated with increased support from pro-reform respondents compared to tough-on-crime respondents.
- Republican candidates are associated with increased support from oppose-sanctuary city respondents compared to pro-sanctuary city respondents.
- Democratic candidates are associated with increased support from pro-sanctuary city respondents compared to oppose-sanctuary city respondents.

Finally, when policy and partisan information are both unavailable, I expect respondents to resort to gender and race cues. Candidates' gender and race cues can operate as heuristics to signal a liberal leaning (McDermott, 1998). As such, I expect that women and Black candidates will obtain more support from pro-reform and pro-sanctuary city respondents, all else being equal.

- **Low Information Nonpartisan Election**

- Women and Black candidates are associated with increased support from pro-reform respondents compared to tough-on-crime respondents.

- Women and Black candidates are associated with increased support from pro-sanctuary city respondents compared to oppose-sanctuary respondents.

## 2.3 SURVEY DESIGN

Testing my hypotheses requires comparing candidates that differ in policy stances on the tough-on-crime and sanctuary city issues, as well as comparing elections that differ in the availability of information (high and low) and electoral methods (partisan and nonpartisan). I take an experimental approach, with hypothetical candidates combined with random assignments of informational settings; this enables me first to manipulate voters' exposure to informational cues, and second to control for respondents' background characteristics that may influence their candidate choice.

I test my hypotheses with a conjoint experiment consisting of four information environments. Conjoint designs are increasingly used in political science (Hainmueller, Hopkins and Yamamoto, 2014). The conjoint design operates by presenting respondents with multiple pieces of information that randomly vary at the same time. In my design, I present respondents with ten pairs of profiles regarding hypothetical prosecutorial candidates. The attributes of each candidate come from a set of candidate attributes (*demographic characteristics, party, and policy positions*). For each pair, respondents are asked to evaluate the profile of each hypothetical candidate and to identify which candidate they would prefer to see as their district attorney.

### 2.3.1 RANDOM ASSIGNMENT OF RESPONDENTS TO GROUPS

I randomly assign respondents to one of four groups in which they receive information about hypothetical candidates (see Table 2.1). In the two low information environments, respondents receive only personal background information about the candidates, whereas in the two high information environments respondents receive additional information about the candidates' views on tough-on-crime and sanctuary

city policies. These two information environments (low vs. high), when intersected with the two election settings (partisan vs. nonpartisan), yield four overall settings, to which I randomly assign respondents.

Table 2.1: Random Assignment Of Groups

	Low Information Environment	High Information Environment
Nonpartisan Election	Group 1	Group 3
Partisan Election	Group 2	Group 4

### 2.3.2 RANDOMIZED ATTRIBUTES AND LEVELS

Candidate’s personal background attributes cover *Age*, *Gender*, *Race* (White, Black, Latino, or Asian), and *Experience* (criminal defense lawyer, assistant district attorney, judge, incumbent (1st term), incumbent (2nd term)). *Party* has three levels corresponding to the two major US political parties (Democratic and Republican) and independent affiliation. Note that party affiliation is presented only in the partisan-election settings. I present a summary of the attributes and their levels in Table 2.2.

Table 2.2: Overview of Treatment Attributes and Levels

Attributes	Levels
Age	{35, 46, 57, 68}
Gender	{Male, Female}
Race	{White, Black, Latino, Asian}
Experience	{Criminal Defense Lawyer, Assistant District Attorney, Judge, Incumbent(1 term), Incumbent(2 terms)}
Party <sup>a</sup>	{Democratic, Republican, Independent}
News Media Describe As: <sup>b</sup>	{ A tough-on-crime prosecutor; one who advocates for harsher sentences A reform-minded prosecutor; one who advocates leniency for low-level offenders}
Immigration Policy <sup>b</sup>	{Support sanctuary city, Opposes sanctuary city}

<sup>a</sup> Party only displayed in partisan elections

<sup>b</sup> Policy position only displayed in high information conditions

In the high information settings, the candidate profiles contain two additional policy matters: candidates’ support for or opposition to the tough-on-crime issue, with

the latter being termed reform-minded<sup>5</sup>; and candidates' support for or opposition to sanctuary city policies.<sup>6</sup>

Although this randomization approach may create uncommon combinations (Krewson and Owens, 2021), such as a tough-on-crime prosecutor who supports sanctuary city policies, such combinations do occasionally appear in primary elections. Given that prosecutorial candidates compete with opponents within the same party in primaries, candidates may propose policy platforms aiming to distinguish themselves from other same-party candidates, resulting in seemingly counterintuitive policy platform combinations. For example, in 2021, New York County had a crowded district attorney race. Tali Farhadian Weinstein, one of eight Democratic contenders, exemplifies the case of a tough-on-crime prosecutor supporting sanctuary cities. During the campaign, Weinstein demonstrated her support for immigrants by showing her immigrant roots. At the same time, Weinstein ran as tough-on-crime. During the DA debate, she attacked her opponent Bragg's pro-reform platform as being soft-on-crime. Given the possibility of different policy platforms that may appear in primary elections, I allow for the existence of unusual combinations of policy platforms in my survey.

### 2.3.3 MEASURING POLICY PREFERENCES

To examine the extent to which voters' policy preferences affect their support for candidates whose policy stances align with theirs, I need indicators for respondents' policy preferences. I measure respondents' preference for tough-on-crime policy from a pretreatment question where I present respondents two major views regarding the government's approach about punishment and ask them to select which one is closer

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<sup>5</sup>To avoid confusion, in the randomized treatment I explain that tough-on-crime candidate refers to candidates who advocate for harsh sentences, whereas reform-minded candidate refers to candidates who advocate leniency for low-level offenders.

<sup>6</sup>see Appendix A1 for samples of the hypothetical profiles.

to their own policy preference. The two statements are presented below, respondents who select the first statement are coded as "pro-tough," and the second is coded as "pro-reform." Similarly, I ask respondents to read two statements regarding sanctuary city issues and select one that is closer to their opinions. Respondents who select the first are coded as "pro-sanctuary city" and who select the second are coded as "oppose-sanctuary city."

- **Tough-on-Crime Issue**

- Harsh sentencing has helped the society become safer. There are reasons to pursue a tough-on-crime approach.
- Tough-on-crime policies did not make the society safer. We need alternatives to tough-on-crime policies, such as providing treatment programs for drug addiction.

- **Sanctuary City Issue**

- Undocumented immigrants should be deported. There is no reason to have sanctuary cities.
- Sanctuary cities are needed to provide services to undocumented immigrants while they are in this country.

#### 2.3.4 DATA

I recruited participants via Amazon’s Mechanical Turk (MTurk), a crowdsourcing marketplace allowing individuals to complete human intelligence tasks (HITs). I posted a HIT on MTurk in Spring 2021 with a link to my survey form in Qualtrics. Respondents read a consent form and were informed of the topic of the survey before they took it.

In my conjoint survey, each respondent read ten randomly generated pairs of profiles (ten choice tasks), making the total number of evaluated profiles 36,980.

Respondents were randomly assigned to four different groups with each group having over 9,000 rated profiles. The number of rated profiles in each group is detailed in the Appendix (A2).

Generally, experiments based on MTurk samples obtain the same qualitative results as experiments carried out on random samples of the population (Mullinix et al., 2015), especially when using workers with a good reputation (Peer, Vosgerau and Acquisti, 2014). However, there are potential limitations when using MTurk for subject recruitment. Studies find that samples recruited via MTurk are demographically different from the US population (Berinsky, Huber and Lenz, 2012; Huff and Tingley, 2015). There are also concerns regarding MTurk worker attentiveness, or that they may violate assignments by participating in experiments multiple times.

To ameliorate the above concerns, I took several steps to enhance survey quality and reduce sample imbalances. First, I only recruited workers with approval rates above 95% on previous MTurk tasks. Second, I embedded a screening protocol for checking IP addresses and blocking fraudulent workers (Kennedy et al., 2020). Third, I deployed screeners to identify inattentive respondents.

Specifically, I included two screener questions. In the first, I provided respondents a list of policy issues the country is facing and asked them to consider which they consider the most important. Yet in the question, I asked the respondents to ignore the question and only select "none of the above." The second screener came up right before the treatment questions, I provided respondents a list of information sources (TV, radio, printed newspaper, etc.) and asked respondents from which source they get their news. I asked respondents to only select "Other." Respondents who failed the first screener received a warning message; those who also failed the second were directed to the end of survey. Overall, among the 2,396 respondents who completed the survey, less than one quarter (23%) were removed for one of these three forms of failure. 1,849 unique respondents remained in the sample.

Finally, I reweighted my sample. Although my sample resembles the US population in terms of gender and race characteristics, my sample is skewed toward Democrats and it contains a higher proportion of college/university graduates.<sup>7</sup> To correct for such imbalances, I weighted my sample to approximate US population demographics in terms of the proportions of age group, gender, education (no college degree, college degree and above), ideology (liberal, moderate, conservative), and race (White, non-White) using weights obtained via entropy balancing (Hainmueller, 2012).

### 2.3.5 STATISTICAL ANALYSIS

As stated earlier, I am interested in the effect of respondents' policy preferences on choosing candidates with the same issue position. For example, consider if being a tough-on-crime respondent affects choosing a candidate who supports tough-on-crime policies. A simple equation form is

$$\text{Candidate Vote}_i = \beta_0 + \beta_1 \text{Tough-on-Crime Respondent}_i + \beta_2 \text{Respondent Characteristics}_i + \epsilon_i$$

Before looking at the estimates, we might be worried that other factors affecting the vote for a tough-on-crime candidate—such as respondents' levels of education, occupation, family background—might be correlated with a respondent's stance on the tough-on-crime issue and with vote choice for a candidate with particular attributes. It is not as the same as respondents' preferences on the tough-on-crime issue are randomly assigned so that all additional control variables are uncorrelated with candidate vote. It might be that respondents who favor tough-on-crime are correlated with other respondent background characteristics that affect choosing a tough-on-crime candidate.

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<sup>7</sup>See Appendix A3 for a demographic summary of my sample.



To estimate the causal effect of a respondent’s policy position on candidate choice, I adopt a subset-data-by-treatment-level approach, as suggested by Bansak (2021), partitioning my sample by candidates’ randomized policy treatment levels prior to running the regression analysis. This allows me to control for demographic backgrounds that might affect policy preferences and candidate votes.

I first consider evaluating the policy congruence effect of the tough-on-crime policy. The randomized treatment is whether the candidates’ position is either tough-on-crime or reform-minded. I partition the sample into two sets accordingly. After subsetting, I rely on ordinary least squares (OLS) regression to predict the vote for tough-on-crime candidates using a set of variables for respondents’ policy preferences and characteristics. This lets me test whether shared policy positions increase the probability of voting for candidates. In this case, I test whether a respondent is more likely to vote for a tough-on-crime candidate if a respondent favors tough-on-crime over reform, controlling for the respondent’s background.

In the first subset, I evaluate a respondent’s choice for candidates who are tough-on-crime. The outcome variable is *Candidate Choice* given the candidate is tough-on-crime. The explanatory variable, *Tough-on-Crime Respondent*, is a dummy variable for respondents’ preference on the tough-on-crime issue (1 if pro-tough-on-crime, 0 if pro-reform). I include two dummy variables for respondents’ party affiliation, *Democratic Respondent* (1 if Democrat, 0 if Republican or Independent) and *Republican Respondent* (1 if Republican, 0 if Democrat or Independent). I interact the two respondent party identification variables with *Tough-on-Crime Respondent* to see if *Candidate Choice* changes for *Tough-on-Crime Respondent* at varying respondents’ partisanship. Finally, I include *Gender*, *Education*, *Ideology* and *Age* as control variables<sup>8</sup> that may influence respondents’ candidates choice.

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<sup>8</sup>*Education* is a dummy variable. 1 if a respondent has college degree or above; 0 if a respondent without a college degree. *Ideology* is a seven point scale, ranging from very liberal (1), liberal, slightly liberal, moderate, slightly conservative, conservative to very conservative (7).

In the low information setting, I adopt the same subsetting approach. I partition the sample by three randomized treatments: candidates' *party*, *gender*, and *race*. I then predict the vote for Democratic, Republican, women, and Black candidates separately, using a set of variables for respondents' policy preferences and demographic characteristics.<sup>9</sup>

## 2.4 RESULTS

I first examine how policy congruence influences voting decisions in high information environments then look at low information environments, when candidates' policy information is unavailable, to examine how voters might use cues to help them find potential policy congruence candidates.

### 2.4.1 POLICY CONGRUENCE EFFECT IN HIGH INFORMATION ENVIRONMENTS

When exposed to candidate policy information, I expect respondents will evaluate candidates through an issue-oriented lens, allowing for policy congruence to play an important role in shaping voters' preferences. Figure 2.1 demonstrates the policy congruence effect on two policy issues. The y-axis shows the changes in voting probability for a candidate associated with a respondent going from policy *incongruent* to *congruent*—subset by policies (columns of panels) and positions (rows of panels). The x-axis represents the varying combinations of candidate information treatments, ranging from showing issues-support-candidates (all candidates, Democrat, Republican, Independent) to showing issues-opposition-candidates (all candidates, Democrat, Republican, Independent). The dots indicate the median estimates, and lines show 95% confidence intervals. Grey dots and lines denote estimates for all respondents, dark grey for self-identified Democratic respondents, and black for self-identified Republican respondents.

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<sup>9</sup>All tabular model results are contained in Appendix A5 to A7.

First and foremost, there is a significant increase in the probability that a respondent will support a candidate when the candidate shares the same issue position. The left column of Figure 2.1 shows the policy congruence effect on the tough-on-crime issue. On average (the all candidates subset), the probability of tough-on-crime respondents voting for tough-on-crime candidates increases by 14 percentage points relative to pro-reform respondents. This particular policy congruence for Republican candidates increases by 17 percentage points, and for Independent candidates it increases vote probability by 19 percentage points, while policy congruence for Democratic candidates is much lower (4 percentage points) and statistically insignificant.<sup>10</sup>

The policy congruence effect is stronger for the sanctuary city issue. The right column of Figure 2.1 shows the probability of pro-sanctuary city respondents voting for pro-sanctuary city candidates (all candidates) increases by 26 percentage points relative to oppose-sanctuary city respondents. The increase is higher for Democratic candidates (32 percentage points) and Independent candidates (32 percentage points) but lower for Republican candidates (14 percentage points).

Importantly, this policy congruence effect is not muted by partisanship. As mentioned, I present changes in the probability of voting for candidate subset by candidates' *party labels* and *issue positions*. This allows me to assess whether partisan labels reduce the policy congruence effect. I find that being a pro-sanctuary city Republican respondent also substantially increases the voting probability for pro-sanctuary city Democratic candidates by 32 percentage points relative to oppose-sanctuary Republican respondents.<sup>11</sup>

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<sup>10</sup>See Appendix A10 for the predicted probability for Independent respondents. The predicted probability shows that Independent respondents are also associated with increased voting probability with supporting a same issue position candidate.

<sup>11</sup>I also present an analysis incorporating respondents' strength of partisanship in the Appendix A9. I calculate the predicted probability for each level of respondent partisanship: *lean Democrat*,

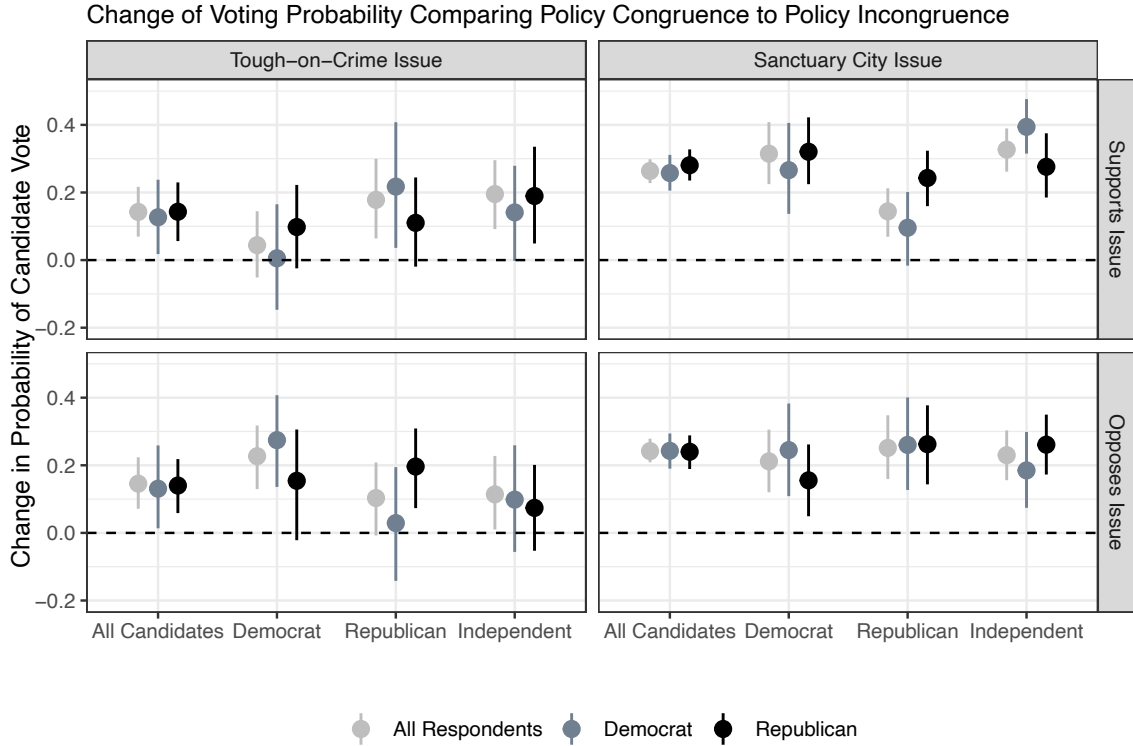


Figure 2.1: Policy Congruence Effect In High Information Environment

The y-axis shows the predicted probabilities changes associated with a respondent going from policy incongruence to policy congruence on two issues subset by policies and positions. The x-axis represents the varying candidate party treatments. Gray dots and lines denote estimates for all respondents, dark for Democrats, and black for Republicans. 95% confidence intervals are obtained from robust standard errors, clustered by respondent.

Given that party identification is a powerful factor influencing voting behavior in the US, this result is striking. The fact that shared policy position increases voting probability even for an opposite party candidate suggests that voters value policy congruence and that partisanship is not so powerful as an influence that it can undermine the effect of policy congruence.

Overall, these findings provide evidence that policy congruence plays a crucial role in candidate choice when voters are in a high information environment even after controlling for party and ideology. Further, it demonstrates that the provision of

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*moderate Democrat, strong Democrat, lean Republican, moderate Republican, and strong Republican.* I present the tabular model results and visualized predicted probabilities in A9.

candidate policy information induces respondents to vote for candidates who are in line with their policy positions, even if those candidates are not co-partisans.

#### VOTING IN LOW INFORMATION ENVIRONMENTS: PARTISAN ELECTIONS

In the previous section, I examine how policy information affects voting behavior when voters are in high information environments. However, prosecutorial elections are commonly low information elections in which I expect party and candidates' demographic backgrounds to offer cues to policy-oriented respondents.

The first scenario I consider is low information, partisan elections. In this scenario, I expect voters to infer candidates' policy platforms from their party affiliations. Voters generally assume that Republican candidates support tough-on-crime policies and oppose sanctuary city issues, while Democratic candidates hold the opposite positions.

Following the subsetting approach, I partition the data by candidate party labels, and then run four linear regressions examining two sets of relationships. In the first set of models, I predict the vote for Democratic and Republican candidates separately while using a set of variables for respondent characteristics and their policy preference about the tough-on-crime issue. I run the analysis analogously for the sanctuary city issue in the second set of models.

Figure 2.2 presents the relationship between respondents' policy preferences and candidate choices by parties. The left panel shows that, on average, tough-on-crime respondents are associated with slightly increased voting probability for Republican candidates relative to pro-reform respondents, and decreased voting probability for Democratic candidates. While the differences are not statistically significant, the median estimated differences are sizable and sign in the anticipated direction. The right panel presents that, relative to oppose-sanctuary city respondents, pro-sanctuary city respondents are associated with increased support for Democratic candidates, and

decreased support for Republican candidates. The results are consistent with my hypotheses and the estimated differences are significant.

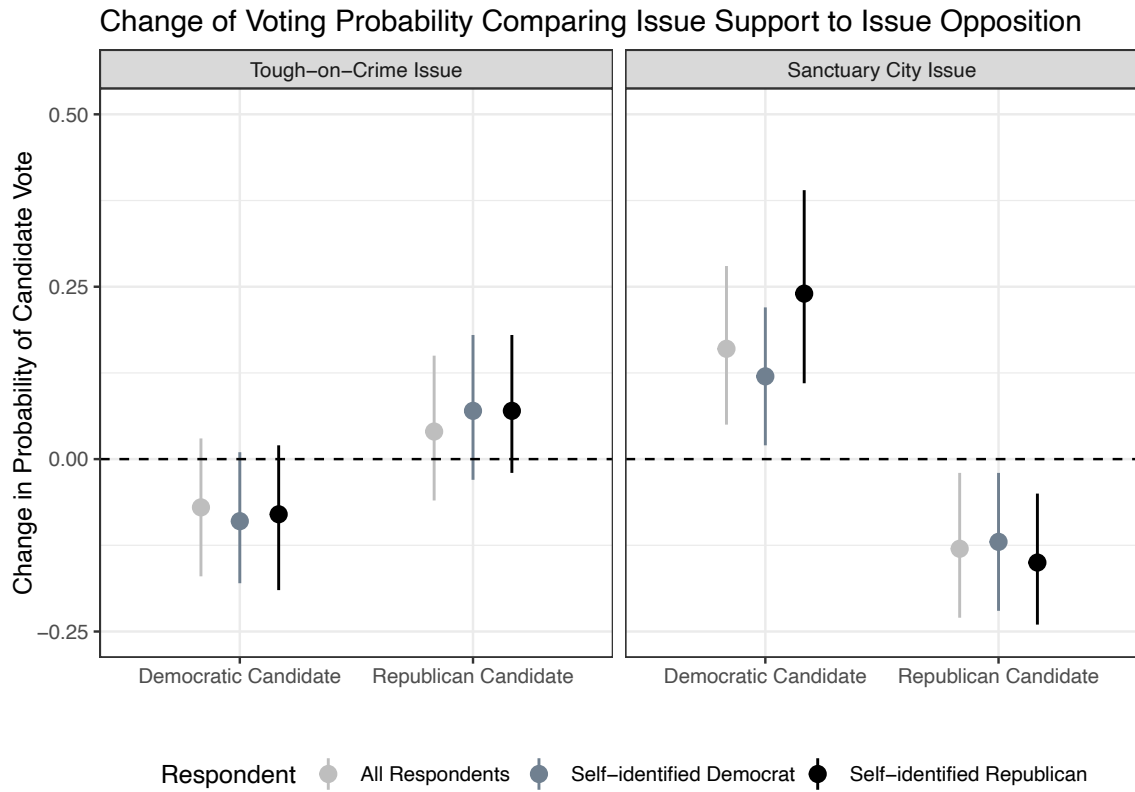


Figure 2.2: Voting In Low Information Partisan Elections

The y-axis shows the predicted probabilities changes associated with a respondent’s policy preference going from an opposing to a supportive attitude on the tough-on-crime issue and the sanctuary city issue, respectively. The x-axis shows candidates party treatments. 95% confidence intervals are obtained from robust standard errors, clustered by respondent.

There is a clear pattern in which pro-sanctuary city respondents are associated with higher probabilities of choosing Democratic candidates and lower probabilities of choosing Republican candidates, despite respondents’ lack of a candidate’s policy information. The findings suggest respondents distinguish candidates’ policy positions by their party labels when it comes to the sanctuary city issue. This result demonstrates that respondents may vote based on a candidates’ imputed policy stances without seeing candidates’ policy information, after accounting for respondent ideologies and partisan leanings. For example, for Republican respondents who support

sanctuary city policies, the probability of voting for a Democratic candidate increases by 25 percentage points, relative to oppose-sanctuary city Republican respondents. However, the connection between tough-on-crime respondents and Republican candidates is weaker and insignificant, suggesting voters do not distinguish candidates' positions on the tough-on-crime by party labels. I address possible explanations in the discussion section.

#### VOTING IN LOW INFORMATION ENVIRONMENTS: NONPARTISAN ELECTIONS

Five states—Arkansas, California, Minnesota, North Dakota, and Oregon—elect their local prosecutors in a nonpartisan manner. Therefore, I consider a second scenario of low information voting: when candidates' policy information and party labels are both unavailable. In this scenario, I posit that voters will infer candidates' policy positions from *gender* and *race*, expecting that voters generally associate women and Black candidates with liberal political leanings. Specifically, I test whether tough-on-crime respondents are less likely to support women and Black candidates relative to pro-reform respondents, and if pro-sanctuary city respondents are more likely to support women and Black candidates relative to oppose-sanctuary city respondents.

Again, I subset the data by two randomized treatments (candidate *gender* and *race*), and then predict the vote for women candidates and Black candidates separately while using a set of variables for respondents' characteristics and their policy preferences about the tough-on-crime issue and sanctuary city issue.

Figure 2.3 presents the relationship between respondents' policy preferences and women and Black candidates. The left panel demonstrates that being a tough-on-crime respondent does not significantly decrease the voting probability for a woman or Black candidate relative to a pro-reform respondent. The right panel presents that, compared to oppose-sanctuary respondents, being a pro-sanctuary city respondent does not significantly change the voting probability for a woman candidate.

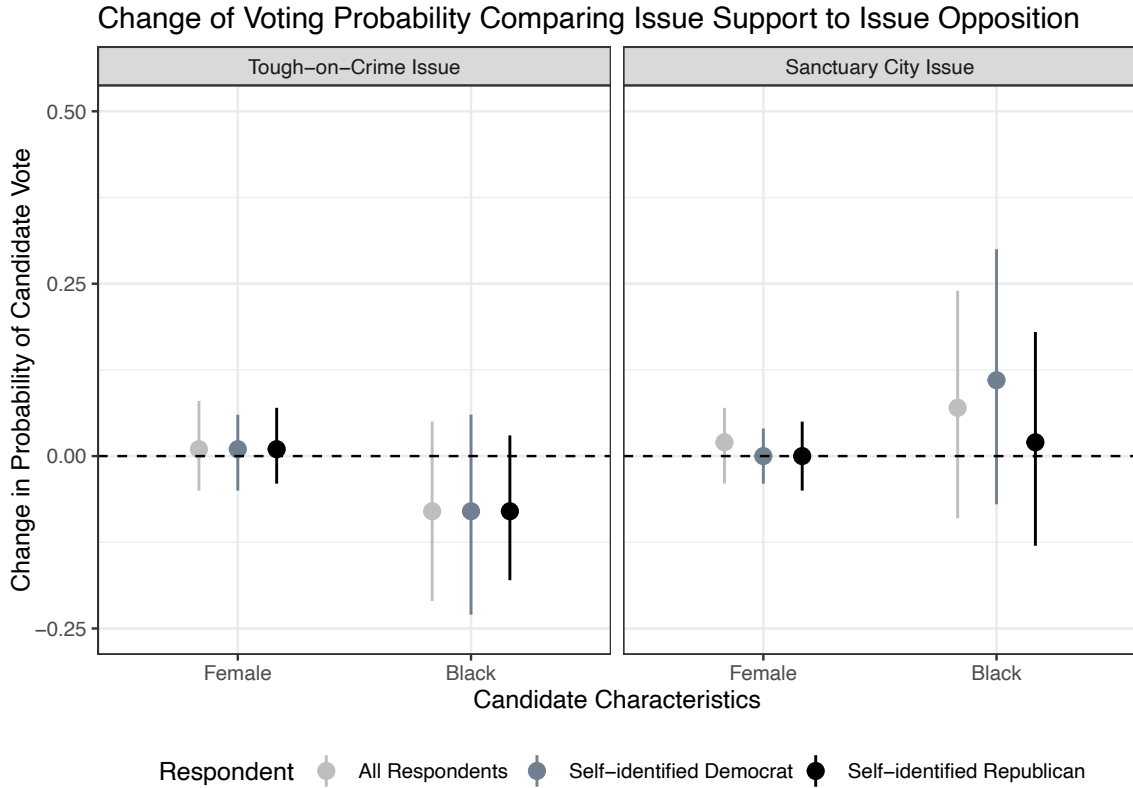


Figure 2.3: Voting In Low Information Nonpartisan Elections

The y-axis shows the predicted probabilities changes associated with a respondent’s policy preference going from an opposing to a supportive attitude on the tough-on-crime issue and the sanctuary city issue, respectively. The x-axis represents two candidates characteristics treatments. Estimates obtained from interaction models interacting respondents’ policy preferences with separate dummy variables for respondents’ self-identified party affiliation. 95% confidence intervals are obtained from robust standard errors, clustered by respondent.

Although pro-sanctuary city respondents are associated with increased support for Black candidates, the increase is not statistically significant. Overall, these findings suggest that voters might not use gender or race-based cues to infer policy positions in the context of tough-on-crime and sanctuary city issues.<sup>12</sup>

<sup>12</sup>To further consider whether voters’ expectations toward prosecutors vary by gender and race combinations. I conduct additional analysis and then predict the vote for four types of gender-race combinations (*White-male*, *White-female*, *non-White-male*, *non-White-female*). This is not the focus of this paper, but are potentially of interest to the reader. I present the above results in Appendix A11 and A12.



## 2.5 DISCUSSION

Increasing number of politicians have moved away from tough-on-crime stances and platforms, favoring reform-oriented platforms more frequently in the 2010's and onward. Prosecutors have been advocating reductions in incarceration, the substitution of drug treatment programs for drug-related prison sentences, and reversals of wrongful convictions (Green and Roiphe, 2020; Sklansky, 2016; Wright, Yates and Hessick, 2021*a*). Similarly, social groups have been mobilizing bipartisan support for reforms and launching initiatives to help voters choose judicial candidates who support criminal justice reform issues.<sup>13</sup> However, we do not know whether candidates who adopt reform-minded platforms actually influence voters' choices at the ballot box, nor do we know whether increased information about candidates' policies helps voters identify like-minded candidates.

In this chapter, I tackle this question by examining how the availability of candidate information influences voting decision in the context of prosecutorial elections. I develop a theory to analyze how voters evaluate prosecutorial candidates in four information environments. This study provides new insights for research on voting behavior and prosecutorial elections in three ways.

First, my results suggest that policy congruence significantly affects voters' evaluations of prosecutorial candidates in high information environments. On average, candidates obtain more support from respondents aligned with their policy stances. Given that this is even the case when candidates and respondents are from the opposite party, we have strong evidence that policy congruence plays a key role in voting

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<sup>13</sup>For example, the ACLU is the primary advocator providing policy information to voters about candidates for various offices, aiming to reduce disparities in criminal justice by allowing voters to make informed votes.

for candidates. This finding echoes those that the literature has reported in other types of elections, such as presidential and congressional elections.<sup>14</sup>

Second and contrary to my expectations, my results demonstrate that voters do not distinguish between candidates' positions on the tough-on-crime issue by party labels. One possible explanation is party labels cause heterogeneous perceptions of tough-on-crime stances. For example, a recent study indicates that Democratic politicians are incentivized to pursue punitive policies when facing electoral pressures (Gunderson, 2021). Thus, Democratic politicians might behave in the same way or tougher than Republican politicians. In turn, voters may find it difficult to connect party labels to policy stances on tough-on-crime.

Third, my results suggest that respondents do not use gender- and race-based cues to infer candidates' policy positions in my two policy issues. This finding is inconsistent with prior studies suggesting that voters perceived women and Black candidates as more liberal, and Black candidates as more committed to issues related to race (McDermott, 1998; Williams, 1990). One possible explanation for this result might be that respondents evaluate women prosecutors differently from women in general. Growing scholarships suggest that women politicians receive their own distinct stereotypes. For example, Schneider and Bos (2014) find that gender stereotypical traits ascribed to women politicians are distinct from those ascribed to women as such; voters also hold different expectations for women legislative and executive officeholders, suggesting more subtypes for women politicians (Sweet-Cushman, 2021). Another possible explanation might be that voters do not link women candidates with a "soft" image as women prosecutors may strive to overcome gender stereotypes by behaving tougher than men. For example, Marilyn Mosby, the current State's Attorney for the Baltimore district, won the Democratic primary by promising to be tough on violent

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<sup>14</sup>See, among many, Bullock (2011), Fowler and Margolis (2014), Fowler et al. (2020), Lenz (2009), Peterson (2017), and Tesler (2015).

crime; Angela Corey, former Florida State’s Attorney for the Fourth Judicial Circuit Court, had a punitive record in prosecuting juveniles, and was known for seeking death sentences (Pishko, 2016).

The presence of tough women prosecutors suggests that gender stereotypes of women candidates may not be useful as a heuristic for prosecutorial candidates. Similar phenomena to these complicated dynamics for women in politics are likely to occur for non-White prosecutors, explaining the absence of a racial cue affecting vote choices for prosecutors. These findings are encouraging for the continued and future study of the complexities of identities such as race and gender in political campaigns and criminal justice spheres, particularly causal mediators such as perceptions of femininity or aspects of stereotypes such as compassion by race and gender.

## 2.6 CONCLUSION

Prosecutorial decision-making is inextricably linked to matters of inequality, be it of race, class, or gender. The discretion prosecutors wield can be used to further entrench existing inequalities in America or weaken them. For example, despite being arrested for the same crime, Black drug offenders receive diversion as an alternative to incarceration at substantially lower rates than White offenders (Rehavi and Starr, 2014). Ample studies show that tough sentencing regimes have a disparately negative impact on marginalized groups and that progressive policies can lessen these unequal outcomes. Understanding how the public’s demands for reform influence prosecutorial discretion is critical.

My results suggest that public preferences are not unequivocally harsh, and that voters care about whether candidates reflect their policy preferences when evaluating prosecutorial candidates. This finding suggests that the public’s demand for a less punitive approach may translate into candidate choices when the electorate is informed. In addition to the demand of justice, because mass incarceration also imposes

an enormous burden on state and local governments, adopting corrective policies has a direct effect on reducing jail and prison populations and related budgets.<sup>15</sup> The potential effects that the public can have on criminal justice reform should encourage scholars and policymakers to examine how to increase voters' attention in prosecutorial elections and improve the dissemination of information about candidates. Granted, an informed electorate alone will not suffice to change the political landscape of prosecutorial elections as candidate emergence and supply is also critical<sup>16</sup> (Hessick and Morse, 2020; Wright, Yates and Hessick, 2021*a*). However, increasing information about prosecutorial elections is an essential first step for voters to identify policy congruent candidates.

Finally, like all studies, my design has limitations. Despite research suggesting that conjoint design can mirror real world decision tasks where people face candidates with a bundle of attributes (Hainmueller, Hangartner and Yamamoto, 2015), I acknowledge that my design does not fully mirror the dynamics of information flow that may circulate in actual low information elections. In the real world, voters may learn about candidates' party information even in nonpartisan elections. Voters may be exposed to candidates' party information when campaigns get intense. Future research should more fully consider the dynamics at work when voters evaluate prosecutorial candidates; for example by considering how the competition of the local media market may account for possible variations in information flow between elections in urban and rural districts.

With these caveats in mind, this study aims to determine whether providing respondents with a carefully controlled experiment setting with varying availability of information influences respondents' cue-taking. The findings I present here demon-

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<sup>15</sup>Philadelphia offers an example, since taking office in 2018, district attorney Larry Krasner has adopted progressive policies resulting in a 4,179-year reduction in future incarcerations, constituting a savings to Pennsylvania of about \$167 million (Wilber, 2019).

<sup>16</sup>Recent scholarship points out the lack of supply of prosecutorial candidates in rural district is a critical problem (Wright, Yates and Hessick, 2021*a*).

strate that respondents care about prosecutors' policy stances more than previously assumed. Given that 95% of local chief prosecutors in the U.S. are elected, my results provide new information for political actors interested in increasing prosecutorial accountability.

## CHAPTER 3

# ARE PROSECUTORS RESPONSIVE TO PUBLIC PREFERENCES?

American prosecutors are commonly described as the most powerful figures in the criminal justice system. Part of what that means is that prosecutors make decisions consequential to life and civil liberties in their daily practices, and those professional decisions are usually relatively unconstrained and subject to little oversight (Sklansky, 2018). For this reason, head prosecutors constantly serve as *de facto* leaders of the local criminal justice system. When they exercise discretionary power, the decisions they make result in notable variations in criminal justice outcomes at the local level. For example, prosecutors' offices differ from one another regarding how they enforce drug laws, and such differences in prosecutorial policies have important implications for equality before the law.

When government officials possess discretionary power, the rule of law also requires that they be accountable. This principle should carry into the sphere of criminal justice, where prosecutors have the freedom to make consequential decisions. One distinctive way American voters hold prosecutors accountable for their discretionary decisions is by selecting the head prosecutors via popular votes. The system of local elections represents that the public vest the locally elected prosecutors with authority to act on its behalf and exercise control via elections (Ellis, 2011). Ideally, citizens pay attention to prosecutors who make decisions on their behalf so that prosecutors

are more likely to respond to their constituents' preferences. In reality, we do not know the extent to which elected prosecutors are responsive to the public will.

Earlier research raised significant doubts about public influence over prosecutorial policy-making based on the lack of substances in prosecutors' campaigns and the public's capacity to play a minimally informed role. Indeed, existing studies show that prosecutorial elections produce little turnover, and incumbents rarely face challengers, suggesting the limited promise of electoral control (Wright, 2008). However, such a general view neglects the rich variations in local politics: contestation rates vary by district. Prosecutors in urban and suburban districts are far more likely to face challengers than rural prosecutors, suggesting elections impose a great threat to urban prosecutors (Hessick and Morse, 2019; Sklansky, 2016). Furthermore, a recent study suggests that voters do care about prosecutors' policy positions. When voters are better informed, they tend to select a policy-congruent prosecutorial candidate (Sung, 2022).

To better understand variation in prosecutors' policy responsiveness, I develop a theoretical framework as to *when* prosecutors are responsive to public opinion. I argue that career-minded prosecutors will be mindful of their constituents' policy preferences and exhibit a fair degree of policy responsiveness in order to garner support from their constituents. However, the degree to which prosecutors are constrained to voters varies across electoral environments. I first consider that a competitive election would raise candidates' attentiveness to public preferences, hence, better policy responsiveness; further, issue salience can facilitate responsiveness by providing prosecutors with information about public preferences.

Major hurdles to empirical research have been the absence of data on (1) prosecutors' policies and (2) constituents' attitudes. I solve both of these by creating an original dataset that contains simulated estimates of local public preferences on criminal justice and crowd-coded data on over 2,343 prosecutors' issue positions. Between

the summer of 2020 and 2022, I conducted extensive data collection that specifically examined the self-ascribed positions of district attorneys concerning drug policies. My dataset includes incumbent prosecutors in office from 2018 to 2022. Moreover, I use survey questions from the 2016 and 2020 Cooperative Congressional Election Study (CCES) dataset<sup>1</sup> to simulate local public preferences on drug-related issues. I also collect additional data on the characteristics of prosecutorial elections, focusing on whether the elections were contested and the share of the votes obtained by the incumbent prosecutors. Using these, I examine my hypotheses concerning the relationship between public opinion and prosecutorial policy.

My findings reveal a positive relationship between prosecutors' mention of drug crimes and the level of public support for drug decriminalization. This effect is intensified under electoral pressure. Specifically, in cases where the incumbent prosecutor is elected from a contested election, there is a significant increase in the probability of prosecutors mentioning drugs as public support for drug decriminalization rises. Furthermore, I discover an electoral connection between public opinion on drug policies and how prosecutors handle drug crimes. In districts with greater public support for drug decriminalization, prosecutors are more inclined to adopt a pro-decriminalization stance and are more likely to prioritize prevention-based approaches when dealing with drug charges. Additionally, this electoral connection is strengthened when prosecutors face contested elections. These findings provide a promising perspective on elections as a mechanism for holding prosecutors accountable, with their responsiveness being influenced by electoral pressure.

This study contributes to the research in state and prosecutorial politics in three ways. First, though there have been studies on prosecutorial behavior and responsiveness in specific geographical areas, there has not yet been a study of the voter-prosecutors relationship for all counties nationwide. Data difficulty made this a chal-

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<sup>1</sup>Now it is referred to as the Cooperative Election Study (CES) data.



lenging task: county-level polling data is basically nonexistent. There is also no existing measure of issue positions of prosecutors. My study moves the literature forward by developing a novel dataset on chief prosecutors' issue positions and voters' preferences, which allows for future studies of prosecutorial politics.

Second, this research contributes to our understanding of accountability in relation to prosecutors. One of the reasons why prosecutors are powerful actors within the criminal justice system is due to the relative lack of checks and oversight they face. Judicial oversight over charging decisions by prosecutors is often limited, and decisions not to pursue charges are rarely subject to review (Vorenberg, 1980). One avenue for imposing checks on prosecutors is through political control, primarily through elections. However, skepticism has persisted regarding the extent to which elections serve as a meaningful check on prosecutors (Wright, 2008). In my research, I provide a comprehensive examination by analyzing all district attorneys handling of drug policies. The findings demonstrate that when the public strongly expresses a preference for a particular policy, prosecutors are more likely to align their issue positions, particularly in the context of competitive elections. This underscores the influence of public opinion and electoral dynamics in shaping prosecutorial behavior. By shedding light on these dynamics, this research enhances our understanding of the role that elections can play in promoting accountability and shaping prosecutorial decision-making.

Third, my findings have important implications for understanding variation in the politics of punishment at the local level. A fundamental aspect of the study of the rule of law is examining what factors contribute to the consistency and predictability of legal rules, particularly when it comes to avoiding arbitrary and capricious decision-making. In my research, I address the local variation in law enforcement by focusing on the discretion exercised by prosecutors in their jurisdiction and looking at the political factors that influence their behavior. This study contributes to our understanding of why certain counties exhibit more lenient criminal justice sanctions

while others impose more punitive measures. By delving into the dynamics of prosecutorial discretion and the influence of electoral control, we gain insights into the factors shaping local variation in the administration of justice.

### 3.1 PROSECUTORS, PUBLIC OPINION, AND RESPONSIVENESS

In the United States, most local chief prosecutors face periodic elections.<sup>2</sup> In theory, elections are intended to serve as a tool for holding prosecutors accountable. However, doubts persist regarding the effectiveness of elections in holding prosecutors answerable. Research indicates that these elections often lack substantial political discourse, with incumbents emphasizing personal attributes over policy agendas in their campaigns (Wright, 2008). Furthermore, voters typically have a limited understanding of the operations and performance of prosecutors' offices. In cases where elections do influence prosecutorial behavior, it seems to drive prosecutors towards adopting more punitive approaches (Baughman and Wright, 2020). This perception is further compounded by the low contestation rate observed in prosecutorial elections, where incumbents rarely face challengers.

However, the contestation of prosecutorial elections has gradually changed over time (Hessick and Morse, 2020; Wright, Yates and Hessick, 2021*b*). While in the past, incumbent often ran unopposed, Hessick and Morse (2020) show a changing dynamic in prosecutorial elections—current prosecutors faced challengers upward of 30% of the time in the 2014 and 2016 election cycles, a departure from trends measured by Wright (2008). Even though incumbents still win the overwhelming majority of their elections, a group of reform-oriented prosecutors unseated long-serving incumbents, challenging the conventional view that incumbents always win (Sklansky 2016). It

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<sup>2</sup>In 46 out of the 50 states in the US, prosecutors are chosen through the electoral process, while only four states employ appointment-based systems.

should be noted, these changes are more likely to appear in high-population districts (Hessick and Morse, 2020; Wright, Yates and Hessick, 2021*b*).

Another significant change observed in prosecutorial elections in the past decade is the rise of issue-based campaigns. Candidates in urban areas are more likely to face competitive elections, resulting in campaigns that place greater emphasis on their views regarding important criminal justice issues (Davis, 2019*a*). Additionally, advocacy groups have become increasingly involved in endorsing and criticizing prosecutorial candidates based on their positions on criminal justice policies, aligning with the growing momentum for criminal justice reform. For instance, in 2018, the American Civil Liberties Union (ACLU) introduced initiatives like "Vote Smart Justice" and "Meet your DA," nonpartisan programs aimed at educating voters by providing them with state-specific information about candidates' stances on key issues.

However, despite these changes in the prosecutorial election landscape, there remains limited understanding regarding whether elections have become more effective in translating public preferences into policy outcomes. Empirical research on district attorneys is scarce, with only two studies investigating prosecutorial responsiveness, and these studies present conflicting results. The first study, conducted by Nelson (2014), examines the behavior of district attorneys in Colorado following the legalization of marijuana. Nelson uses the outcomes of the marijuana ballot measure as a gauge of local-level constituency opinion. The findings indicate that district attorneys tended to adjust their sentencing decisions after receiving information about the results of the initiative, suggesting their responsiveness to local-level public opinion. The second study, conducted by Sances (2021), adopts a similar methodology. Sances examines a series of criminal justice ballot propositions in California to investigate the relationship between district attorneys and their constituencies. However, the study reveals a contrasting finding. Despite significant variation in voter preferences across different geographical areas of California, district attorneys' policy stances

consistently lean towards a conservative position, indicating a limited level of responsiveness. Building on this prior research, my study expands the scope by investigating the responsiveness of district attorneys across all counties in the United States. By examining a broader range of jurisdictions, I provide a comprehensive understanding of the dynamics between district attorneys and their constituencies.

### 3.2 THEORETICAL FRAMEWORK: PROSECUTORS AND POLICY RESPONSIVENESS

I develop theoretical arguments as to *when* prosecutors will be responsive to public preferences. There are two major actors in my framework: prosecutors and voters. We can make three reasonable assumptions about these actors: (1) prosecutors wish to be in office; (2) voters can determine who is in office; (3) voters like to see their own policy positions reflected in those of selected candidates. From these assumptions, we can conclude that the desire to be in office motivates prosecutors to be mindful of voters' preferences and to exhibit a fair degree of policy responsiveness in this direction.

More concretely, in this framework, I assume that prosecutors are career-minded rational actors when deciding their issues positions on criminal justice policies. That is, I assume that prosecutors prefer to stay in office rather than being voted out of office. I assume voters also have preferences over policy outcomes in the criminal justice system. For example, some voters may prefer tough-on-crime prosecutors over pro-lenient prosecutors. Voters use available information to infer prosecutors' possible issue positions and select candidates who resemble their policy views. Prosecutors, with the desire to win an election or retain office, are thus incentivized to behave as though their preferences resemble their constituents. If a prosecutor is aware that their constituents favor a tough-on-crime approach, they will adopt a punitive stance

to cultivate an image that resonates with their constituents (Gordon and Huber, 2002).

However, the degree to which prosecutors learn about voters' preferences and be constrained to voters varies across political environments and institutional settings. To properly capture the linkage between public policy preferences and the policy responsiveness of elected prosecutors, this paper draws on the existing literature on constituency effects and judicial elections, adapted to the context of prosecutorial elections. In this way, I specifically examine under what conditions electoral forces enhance or retard prosecutorial responsiveness. I argue that public preference influences prosecutorial policy in election-based systems but in a contingent manner. Prosecutorial responsiveness is higher in districts where both elections are competitive and issues are salient.

### 3.2.1 ELECTORAL PRESSURE

Scholars produce a variety of evidence that public opinion affects public officials' decision-making. As democratic theory suggests, elections function as citizens' formal control over who holds office and should serve as an important device for producing public policies strongly representative of constituents' hopes (e.g., Mayhew, 1974). Policy responsiveness is produced mainly through two functions of election mechanisms: (1) elections strengthen incumbents' attentiveness to the public; (2) elections replace incumbents who fail to satisfy the public with representatives who promise to be responsive (e.g., Bartels, 1991; Miller and Stokes, 1963).

Scholars find various evidence that public opinion influences judges' decision-making in the sphere of judicial decision-making. For example, federal judges may follow public preferences to bolster their legitimacy, despite not facing electoral pressure (Epstein and Martin, 2010). As for state judges, electoral pressure is more straightforward since most face judicial elections to maintain their seats on the bench. In

the context of capital punishment cases, scholars constantly find that public support for capital punishment influences judges' willingness to uphold death sentences (e.g., Brace and Boyea, 2008; Canes-Wrone, Clark and Kelly, 2014). Public influence on judicial behavior also extends to judges who are not subject to contested elections. For judges retained through retention elections, studies find that the mere presence of elections can induce judicial responsiveness (Traut and Emmert, 1998), regardless of whether the elections are contested (Canes-Wrone, Clark and Park, 2012).

Although research on prosecutors is scarce, existing empirical studies show a similar pattern of electoral connection. Specifically, studies find that local punitiveness strongly affects federal prosecutors' decisions on pursuing violent crime charges, suggesting that prosecutors are concerned about being evaluated based on public issues (Boldt and Boyd, 2018). Given that federal prosecutors are chosen through an appointment system, Boldt and Boyd's findings imply that local punitiveness may have an even more significant impact in contexts where prosecutors are elected (Gordon and Huber, 2002). Indeed, in the context of marijuana cases, Nelson (2014) finds that Colorado prosecutors tend to respond to local-level opinion after they receive signals about public preferences. Specifically, prosecutors in liberal areas became more likely to dismiss charges, while those in conservative areas exhibited oppositional behavior.

Ideally, the process of having public officials face voters periodically should incentivize the former's responsiveness to the latter. Yet the extent to which the public may constrain elected officials depends on whether the electorate imposes substantial pressure on incumbents—an issue of electoral competition. Such competition demonstrates voters' ability to oust sitting officials. The pressure occurs when challengers enter elections and voters threaten to withdraw their support for an incumbent.

I consider the pressure arises from two sources of competition. First is the presence of challengers, which directly signals that there are alternatives in the political market and prospects of defeat. Second is the size of electoral advantages. In competitive

elections, even when incumbents win, a narrow margin of victory produced by closed races between candidates should intensify the victorious incumbents' attentiveness to public preference to avoid future defeats. In this vein, even in uncontested elections, such as retention elections, large percentages of voters casting ballots not to retain the incumbent can signal disapproval from the electorate and thus promote policy responsiveness. Following this logic, the expectation is that elections characterized by high competitiveness would enhance the congruence between elected prosecutors and public preferences.

### 3.2.2 ISSUE IMPORTANCE

I also anticipate that the level of responsiveness from prosecutors will fluctuate as the importance of the issue changes. This is because electoral incentives become clearer with more salient issues. As the classic argument of constituency influence by Miller and Stokes (1963) suggests, elections expose elites to the views of the general public, which in turn enhances their responsiveness to mass opinion. In this view, issue salience, by helping acquaint candidates with voters' preferences, is crucial to alignment between the two. Simply put, if salience is low, political leaders may not be aware of their constituents' preferences; when salience is high, public preferences are more pronounced. Therefore, political actors tend to be more responsive to public opinion as they are more certain about the opinions held by the general public (Geer, 1996). Moreover, the high visibility of salient policies can increase the cost for political elites if they were to diverge from the public's will.

Empirical studies on elected officials support the notion that highly salient issues enhance responsiveness. This is particularly the case in the context of judicial responsiveness. As the average person tends to have less knowledge about courts and judges, research on judicial responsiveness tends to focus on highly visible issues, such as the death penalty (e.g., Hall, 1992, Hall and Brace 1992), and finds that

the level of judicial responsiveness appears to depend on the visibility of the issues, more visible issues tend to induce a greater degree of judicial responsiveness (Cann and Wilhelm, 2011). Similarly, Nelson (2014) finds that both judges and prosecutors tend to be more responsive when they acquire high-quality issue-specific information about constituent preferences, such as local-level votes on initiatives.

In this vein, I consider that high issue salience promotes prosecutorial policy responsiveness as it (1) provides voters more information about candidates' policy positions; (2) provides prosecutors more information about the public's preferences; and (3) strengthens both issue visibility for the public and, in turn, prosecutors' attentiveness to constituents' views on high-salience policies. The expectation is straightforward: high salience should lead to greater responsiveness between prosecutorial behavior and public opinion. For example, in the context of drug charges, when prosecutors perceive a heightened public concern about drug crime, they will be more likely to address drug-related issues and align their approach to handling drug charges with constituent preferences.

### 3.3 CONCEPTUALIZATION OF PROSECUTORS' ISSUE POSITIONS

Given that prosecutors handle various types of criminal cases, I focus this research project on one of the most pressing issues: drug policy. Studying prosecutors' policy responsiveness in the context of drug crimes is particularly insightful for two reasons. First, drug offenses constitute a substantial proportion of criminal cases in both federal and state courts. Since President Nixon's declaration of the "war on drugs" in the 1970s, law enforcement agencies have prioritized the enforcement and prosecution of drug crimes, leading to heightened penalties and intensified efforts (Western, 2006; Travis, Western and Redburn, 2014). This emphasis makes drug policy a prevalent issue area within the criminal justice system.



Second, crime policies have undergone significant shifts over the years. The war on drugs era witnessed a punitive approach, with politicians often emphasizing harsh sentences and punitive measures (Beckett, 1999; Marion, 1994). However, in recent years, there has been growing recognition of the need for alternative approaches to punishment, such as diversion programs, treatment options, and decriminalization or legalization efforts (Wright, Yates and Hessick, 2021*b*). For this reason, examining how prosecutors respond to these evolving policy perspectives is crucial for assessing their adaptability to changing public attitudes.

To conceptualize prosecutors' policy positions regarding drug-related charges, I build on the existing literature on the politics of punishment within the criminal justice system, which highlights two primary orientations. The first orientation is known as the incarceration-based approach, which gained prominence during President Nixon's administration. Nixon's presidency emphasized increasing penalties for criminal offenses and strengthening the likelihood of conviction to dissuade potential offenders (Beckett, 1999; Matusow, 1984). Additionally, during the 1970s, the U.S. Congress played a significant role in promoting punitive measures to deter crime. Examples of such legislation include mandatory minimum sentences and "three strikes" laws. Research consistently associates the surge in U.S. incarceration rates with the adoption of punitive penalties in response to drug-related offenses (Pfaff, 2015) and highlights the significant role that prosecutors play in driving the growth of incarceration (Pfaff, 2012).

The second orientation is known as the prevention-based approach, which has gained more attention in recent years, particularly with the emergence of "smart on crime" criminal justice reforms. This approach focuses on reducing government budgets and addressing skyrocketing incarceration rates by scrutinizing the efficiency and effectiveness of current criminal justice practices (Fairfax Jr, 2012). The primary goals of the prevention-based approach revolve around implementing effective

preemptive mechanisms to prevent criminal behavior and introducing alternatives to incarceration and traditional sanctions that aim to reduce recidivism (Fairfax Jr, 2010). The prevention-based approach has garnered support from various activist groups as well as reform-minded prosecutors, who advocate for the elimination of criminal penalties for low-level drug crimes related to personal possession (Sklansky, 2017). After introducing the concept of prosecutors' policy stances on drug-related charges, the following section provides an overview of the coding procedure used to analyze the issue positions of prosecutors.

## RESEARCH DESIGN

Testing the models of prosecutorial policy responsiveness requires data consisting of district-level estimates of policy-specific opinions and the corresponding district-level estimates of prosecutorial policy. This paper includes 2,343 prosecutorial districts in the United States identified from the Bureau of Justice Statistics. Regarding specific issue positions, my focus is on the handling of drug offenses by prosecutors, as local prosecutors tend to have significant discretion regarding how they handle such charges (Davis, 1998). I produce two outcomes from prosecutors' statements related to drug policies: first, prosecutors' issue position on drugs, and second, prosecutors' approach to punishment. These two categories, because they involve salient, polarizing issues in the United States, allow me to observe considerable variation in prosecutorial policies.

### 3.3.1 CODING PROSECUTORS' HANDLING OF DRUGS, 2018 TO 2022

I use crowd-coding to construct an original dataset of 2,343 prosecutors' positions on the decriminalization of drugs. This coding method is one of the more recent methods available for coding a large amount of text data in the social sciences (Benoit et al., 2016). Different from practitioners of expert surveys, coders are non-experts on the specific issues being coded. The idea of crowd coding is that, on average, the aggre-

gated judgments of different coders approximate the "true" answers (Lehmann and Zobel, 2018). To code the drug policy positions of local prosecutors, I use statements from incumbent prosecutors' offices and campaign websites released between the 2018 and 2022 election cycles. I ask coders to assess these prosecutors based only on the self-ascribed positions presented on their websites.<sup>3</sup>

The coding process takes two rounds (see Figure 3.1). In the first round, coders classify whether prosecutors' websites mention a drug-related policy. They are urged to choose the 'unsure' answer only when they find it difficult to determine. I refer to this first question as the 'selection question.' I use the aggregated answer given to the selection questions to extract only those prosecutors that mention drug-related policy on their websites.

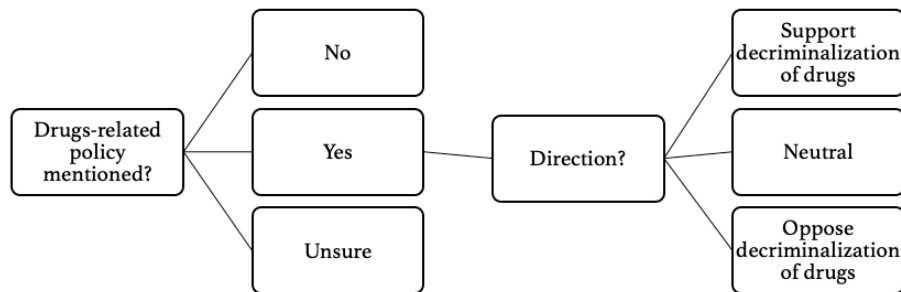


Figure 3.1: The coding process of drugs policy positions

Coders in the second round then consider the smaller pool of prosecutors selected from the first round. In this round, coders classify prosecutors on the basis only of the direction of their prosecutorial drug-policy positions, as examined from the website statements. I ask coders to decide if the statement is supportive, opposite, or neutral towards the issue of drug decriminalization, respectively. The neutral answer is only used if the website statement describes the status quo or uses technocratic language

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<sup>3</sup>Prosecutors' policy positions can be obtained from various sources, and the degree of exposure of these positions varies among prosecutors. While some prosecutors receive more media attention, others do not. This study relies explicitly on prosecutors' office websites to ensure consistent data collection, as nearly every prosecutor has a dedicated website.

without implying any judgments. I refer to this second question as the 'direction question.'

### 3.3.2 DEFINING THE CODING TASKS

#### FIRST ROUND: SELECTION QUESTION

For units of text to be coded, I use prosecutors' office and campaign websites as my coding units. The coding is based on these two sources of information because they provide a public statement of prosecutors' self-ascribed positions and policies prosecutors have implemented in their districts.

I set up the coding survey form using Qualtrics and use Prolific as a crowd-sourcing platform to recruit coders. For each prosecutorial office being coded, the procedure is as follows: first, coders receive a brief job description indicating their main task is to find the local prosecutors' websites and evaluate whether those websites address the issue of drug policy. Second, after accepting the Human Intelligence Task (HIT),<sup>4</sup> coders received coding instructions and randomly assigned prosecutor office information—the district office name, location, and the name of the incumbent—from a list I compiled in advance. Coders are asked to use this information to find the prosecutor's official website as well as the campaign website. Coders should provide the links to the above two websites, which I use to verify the coders' searchings. Third, I instruct coders to read through the websites and evaluate whether prosecutors mentioned the issue of drug policy. Coders are recommended to focus on the sections where the prosecutors talk about their policy positions, such as the "Meet the DA" or "Office Work" sections on the office's website. My main question to the coders was "*does this district attorney's website address the issue of drug policy?*" Coders select one answer from three options: yes, no, unsure. After selecting, I also ask the coders to

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<sup>4</sup>In coding language, each coding task is referred to as "Human Intelligence Task (HIT)."

copy and paste the sentences (or paragraphs) that mentioned drug-related issues on the websites.

#### SECOND ROUND: DIRECTION QUESTION

After the first coding round, I extract only those prosecutors that mention drug policy and compile the text contents where they address drug-related issues from the first round of coders' selections. The unit of text to be coded in the second round is prosecutors' policy statements, divided into paragraphs.

In the second round, each HIT includes ten randomly assigned paragraphs. Before accepting the HIT, I provide coders with a description explaining their main task of classifying the prosecutors' statements. I also give examples of each possible position. After accepting the HIT, coders read through the statements and answer two questions: first, *"on the issue of decriminalization of drugs, is this statement supportive, skeptical and disapproving, or neutral and describing the status quo?"*; second, *"does this statement suggest that the district attorney's approach to drug issues leans towards an incarceration-based approach, a prevention-oriented approach, or is it neutral?"*

I provide a sample of a corpus being coded in the second round in the Appendix. Initially, three coders evaluated one office for the selection question in the first round. Then, the number of coders is increased to five for the direction question in the second round. Table 3.1 summarizes how many district attorney offices entered the second round of coding and how many coders evaluated those district attorneys' drug-related statements.

Table 3.1: Coders and DA offices in the second round of codings

	DA Mentioned	Unique Statements	Codings	Unique Coders
Total	705	1029	4922	4329

### 3.3.3 THE NEW ESTIMATES: CHIEF DISTRICT ATTORNEY'S POSITIONS ON DRUG POLICIES

#### DRUG POLICY MENTIONED

Using the crowd-coded data, I generate three response variables. The first variable, the "*Drug Policy Mentioned*," is an aggregate of crowd coders' answers to the selection question in the first round. While coders can choose three possible options (yes, no, and unsure), this variable is binary. Each district attorney's office is coded either as mentioned drug policy or not. I take the aggregated mean of all answers to convert the codings into a binary variable. For example, an office with two or more coders selecting "yes" is coded as *Drug Policies Mentioned*, and an office with two or more coders selecting "no" is coded as *Not Mentioned*. In situations where two coders are unsure, and one coder selects "yes," I label the office as *Drug Policies Mentioned*. However, situations with two unsure and one "no" are labeled as *Not Mentioned*. This approach allows me to handle uncertain (unsure) answers in a way that minimizes the occurrence of false positives (Lehmann and Zobel, 2018).

Overall, among the 2,343 prosecutorial offices being evaluated, 30% (705) of them are coded as "*Drug Policies Mentioned*" while about 70% (1638) are coded as *Not Mentioned*. In the appendix, I present a summary of the percentage of prosecutorial offices that have mentioned drug-related policies by state.

#### POSITION ON DRUG DECRIMINALIZATION

The second response variable, called "*Position on Drug Decriminalization*," provides information about prosecutors' policy stances pertaining to the decriminalization of drugs. After presenting prosecutors' policy statements, coders evaluate their positions on drug decriminalization. Coders select one of three choices for each policy statement: supportive, skeptical and disapproving, or neutral/status quo. I calculate

the mode value to aggregate each coder's answer to a single variable. I use the "majority decision" rule to sum up five coders' answers into one. Since the policy position is a categorical variable, the majority rule is considered the most appropriate aggregation method: either the majority of coders rate the statement as supportive of drug decriminalization, or the majority of them label the statement as disapproving.

Most of the paragraphs being coded as supportive of the decriminalization of drugs have emphasized "prevention programs," "rehabilitation programs," or "drug courts," signaling their use of alternative approaches rather than seeking prosecutions when dealing with nonviolent drug offenders. For example, the following paragraph is an example of a supportive paragraph:

"As District Attorney, Joe strives to focus on victims, our youth and drug addiction. It is the goal of this office to seek justice for victims of crime and to vigorously prosecute those who would victimize others, especially children. Of particular concern to Joe are the needs and challenges of the youth of Allen Parish. **Joe seeks to be proactive in developing prevention programs and allocating resources so that we may change tomorrow's criminal behavior today.** Joe's experience has made him keenly aware of the effects of drug addiction on our communities. As District Attorney, **Joe seeks to use all available resources to give those with drug addictions the chance for a productive life, including intervention programs, referral to rehabilitation and the Allen Parish Drug Court.** In that same effort, drug dealers, those who would profit from getting our citizens addicted to drugs, are to be held accountable. In all of this, Joe's mission is to be fair and to seek the ends of justice. Joe asks that you join with him as we go forward, Allen Parish families, friends and concerned citizens, as we are all an important part of reducing criminal activity in Allen Parish and making our communities a better place to live, work and raise our children."

(Joe Green, District Attorney, Allen Parish, Louisiana)

On the other hand, offices classified as "skeptical and disapproving" of the decriminalization of drugs tend to focus on the active prosecution of drug offenders. An example of a district attorney being coded in this category is as follows:

**"The Saline County Attorney's Office believes in taking a tough, aggressive, intelligent stance on the interdiction of drug cases and their prosecution.** In terms of investigations, the County Attorney's Office works very closely with all law enforcement

agencies, including the DEA, FBI and ATF. Drugs are one of the most pervasive and systemic problems in society. Generally drug addiction, use and abuse are responsible for contribution to other crimes such as thefts, forgeries, robberies, burglaries and even homicides. **While assisting in aggressive investigation and prosecution of drug crimes, the overall crime level should decrease. Incarceration for serious drug crimes is generally appropriate.**" (Jeff Ebel, District Attorney, Saline County, Kansas)

Overall, among the offices that mentioned drug-related policies, 34% of them are coded as supportive, 22% as skeptical and disapproving, and 43% as neutral/status quo as shown in Table 3.2.

#### POSITION ON INCARCERATION

Finally, the third response variable, "*Position on Incarceration*," provides information about prosecutors' approach to punishment. After presenting the prosecutors' statement, I ask coders to classify their approach to punishment. For each unit of a drug-related policy statement, coders are provided three choices: incarceration-based approach, prevention-oriented approach, and neutral/status quo.

Likewise, most prosecutorial offices classified as adopting a prevention-oriented approach tend to mention "treatment programs" and "rehabilitation" on their websites. In contrast, offices coded as adopting an incarceration-based approach tend to emphasize mandatory sentences and incarceration of drug offenders.

"The attorneys in this bureau work closely with local law enforcement, federal agencies and confidential informants to vigorously prosecute street-level dealers as well as top leaders of drug trafficking organizations. Arizona's Criminal Code mandates severe penalties for drug offenses, with mandatory prison time for crimes that meet or exceed strict statutory thresholds for a wide range of substances including marijuana, cocaine, methamphetamine, prescription drugs and narcotics...Pursuing these cases requires specialized legal expertise and advanced investigatory techniques. These efforts result in the removal of large quantities of dangerous drugs from the community and the incarceration of violent criminals." (The Maricopa County Attorney's Office, Arizona)



I applied the same majority decision rule to aggregate crowd data and determine prosecutors’ positions on incarceration. I present the result in Table 3.2, among the prosecutorial offices that mentioned drug policies, 21% were supportive of incarceration, 47.7% were skeptical and disapproving of incarceration, and 31.3% were coded as neutral.

Table 3.2: Coded Positions on Decriminalization of Drugs and Incarceration

Issues	Supportive	Skeptical and Disapproving	Neutral / status quo
Decriminalization of Drugs	34.4% (243)	22.7% (160)	42.8% (302)
Position on Incarceration	21% (148)	47.7% (336)	31.3% (221)

#### INTER-CODER AGREEMENT

To measure the certainty of my crowd codings, I calculate inter-coder agreement scores for their codings on district attorneys’ policy positions. The procedure is as follows:

I determine the policy stance of each district attorney by applying the majority decision rule. This involves identifying the most frequent classification (the modal value) of their statement as rated by a group of coders. For example, if five coders rate a district attorney’s statement as  $\{-1, 0, 0, 0, 1\}$  then the modal value is 0, and that becomes the policy stance attributed to the district attorney.

The inter-coder agreement is obtained by calculating the proportion of the frequency of the modal value versus other values. If five coders rate a statement as  $\{-1, 0, 0, 0, 1\}$ , the modal value is 0, and the inter-coder agreement is 0.6. If the classifications are:  $\{0, 0, 0, 0, 1\}$ , the modal value is still 0, and the inter-coder agreement increases to 0.8.

Applying this procedure, my results are quite encouraging. Agreement between coders is high for the two policy positions. For the district attorneys’ positions on drug

decriminalization estimate, average inter-coder agreement is 0.65, with more than half of the codings obtaining an agreement score higher than 0.6 (see Figure 3.2). For the approach to punishment estimate, average inter-coder agreement is 0.71, with more than half of the codings obtaining more than 0.7 (see Figure 3.3).

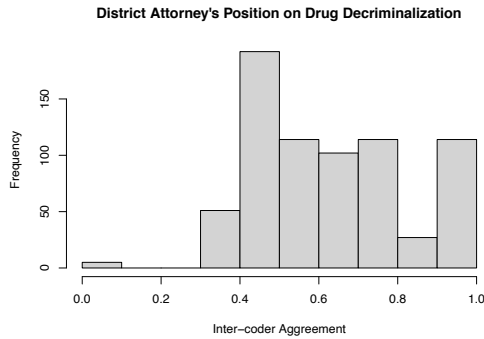


Figure 3.2: Inter-coder Agreements on Drug Decriminalization

The distribution of inter-coder agreements on district attorneys' position on drug decriminalization is left-skewed, showing that most codings obtain more than 60% inter-coder agreement.

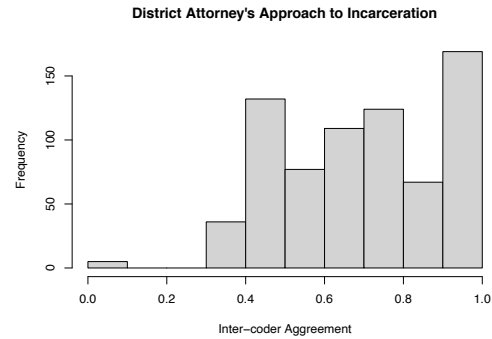


Figure 3.3: Inter-coder Agreements on Approach to Incarceration

The distribution of inter-coder agreements on district attorneys' approach to incarceration is also left-skewed, indicating that more than half of the codings obtain more than 70% inter-coder agreement.

### 3.3.4 COUNTY-LEVEL PUBLIC PREFERENCE ON DECRIMINALIZATION OF DRUGS, 2020

#### MULTI-LEVEL REGRESSION AND POST-STRATIFICATION APPROACH

For my main explanatory variable, county-level public opinion on drug policies, I adopt a simulation approach using hierarchical modeling of individual opinions and post-stratification by population share. My use of the models involves two main steps: (1) I estimate a hierarchical regression to predict the probability of individual preference on policing drugs in each geographic and demographic subgroup; (2) the second step is post-stratification, I weight these probabilities to the estimated population size of these subgroups.

$$Pr(Y_i = 1) = \text{logit}^{-1}(\beta_0 + \alpha_i^{\text{demographics}} + \alpha_i^{\text{geo}})$$

I use data from Cooperative Congressional Election Survey (CCES) to estimate county-level public opinion on drug policies. The demographic covariates I use to predict public preference include respondents' *gender*, *age group*, *education*, *race*, *partisanship*, *ideology*, and *state*. *gender* is a dummy variable for male or female, *age group* has five levels ranging from 18-24, 25-34, 35-44, 45-64, and above 65; *education* is a dummy variable indicating whether an individual has a college degree or not; *race* is also binary, with categories of white and non-white; *partisanship* has 7 levels ranging from strong Democrat (1) to strong Republican (7); *ideology* also has 7 levels ranging from very left (1) to very right (7). *State* is the geographic variable that indicates the state of residence for the respondents. My main response variable is public preference regarding drug crime. I use one survey question from the 2016 and 2020 CCES. The question asks: *Crime Policies*—Do you support or oppose eliminating mandatory minimum sentences for non-violent drug offenders [Support/Oppose]. Policy preference are coded dichotomously, 1 for the support and 0 otherwise.

The logistic regression provides the probability that an adult will support the decriminalization of drugs, given their gender, age group, education, race, partisanship, ideology, and state. Next, I use cumulative CCES data from the years 2006 to 2021, which contains demographic information from over 120,000 respondents, to predict public preferences regarding drug crime. After prediction, I use respondents' zip codes to calculate the weighted averages of supporters of drug decriminalization in each US county. The new variable, *Drug Policy Preference*, is a predicted probability of support for eliminating mandatory minimum sentences for non-violent drug offenders by each US county.

I validate the accuracy of this new estimate by comparing each county's out-of-sample prediction with its true mean in the CCES 2020 data. In general, the model performs pretty well. About 75% of county predictions in my data has predicted

differences less than 0.10 between the true mean and the predicted mean. More details of the validation procedure are provided in the Appendix.

### 3.3.5 ADDITIONAL VARIABLES

I create three additional variables to capture what facilitates prosecutorial responsiveness. The first variable is the *Contested Election*, which shows whether the prosecutor faced a challenger when running for elections. The second variable is the *Electoral Pressure*, which captures the vote share the incumbent prosecutor obtained in the most recent election. To construct the two indicators, I gathered election results from the Secretary of State website for each state. I solely focused on the statewide general election results, excluding the primaries.

The county-level *Crime Issue Importance* is the third additional variable. To estimate county-level public opinion on the importance of crime, I use the MRP approach again. I take a survey question from the CCES, which asks respondents to rate the importance of crime on a five-point scale ranging from "Very High Importance" to "No Importance at All." I then used the cumulative CCES data to predict public opinion on the importance of crime and then use the zip code information to calculate the weighted average for each US county. To keep it simple, I recode this variable as dichotomous, with 1 indicating that the respondent considered crime an important issue and 0 indicating otherwise.

## 3.4 STATISTICAL ANALYSIS APPROACH

### 3.4.1 MODELS

I begin by assessing the basic relationship (1) between whether prosecutors mentioned drug policy and public opinion; and (2) between prosecutors' policy positions and public opinion.

## PROSECUTORS' MENTIONS OF DRUG POLICY

First, I use logistic regression to examine the relationship between the level of public support for drug decriminalization and whether prosecutors mention drug-related policies on their websites. Additionally, I examine whether this relationship is affected by the district-level importance of crime issues and district-level electoral pressure. The expectation is that when public support for drug decriminalization is high, prosecutors are more likely to address drug-related issues on their websites. Furthermore, this responsiveness may be enhanced by local crime issue importance and electorate pressures. Prosecutors are more likely to address drug-related policies in districts where the crime issue is salient and in districts where incumbent faced a challenger or won their past election by a small margin in their past elections.

In this first set of relationships, the outcome variable is *Drug Policy Mentioned*, which is a binary variable indicating whether a drug-related policy was mentioned or not. The main explanatory variable, *Public Opinion on Drugs*, is a continuous variable representing the county-level public preference for drug decriminalization. I include two variables for geographic characteristics: *Democratic Vote Share*, a continuous variable that represents the county-level percentage of Democratic votes in the last presidential election, which captures county-level partisanship; and *Crime Issue Importance*, also a continuous variable serving as a proxy for the issue salience of criminal justice related policy at the county-level. Although I focus on drug-related charges, I use the importance of crime issues as a proxy for the public preference for drug crime.

I also include two variables that represent the characteristics of prosecutorial election: *Contested Election*, a dummy variable that indicates whether the incumbent prosecutor was challenged in her last election; and *Electoral Pressure* is a binary

dummy variable<sup>5</sup> used to capture the vote share obtained by the incumbent prosecutor in their previous election, 1 represents high pressure, while 0 represents low pressure.

The analysis of data reveals a positive and significant relationship between the mention of drugs by prosecutors and the level of public support for drug decriminalization within their respective counties. Although, on average, prosecutors mentioning drug-related policy on their website is infrequent, the effect of public support for drug decriminalization greatly and significantly increases the probability of prosecutors mentioning drug issues. However, public concerns about crime do not significantly increase prosecutors' mentioning of drug issues on their websites. I present the regression table results in Appendix B5.

Figure 3.4 demonstrates the moderation effect. It shows that *Drug Policy Mentioned* is moderated by the extent to which prosecutors faced challenges in their past elections. As the level of public support for drug decriminalization increases, prosecutors who have faced contested elections are more likely to incorporate mentions of drugs into their discourse. The probability of mentioning drugs is as low as 0.25 when public support for drug decriminalization is less than 50%, but when more than 75% of the public supports drug decriminalization, the probability of prosecutors mentioning drugs increases to 0.5. In contrast, for prosecutors who won a non-contested election, the probability of mentioning drugs remains largely unchanged as public preferences vary. This finding indicates that prosecutors' responsiveness is moderated by electoral pressure, with contested elections leading to a higher probability of addressing issues that their constituents support.

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<sup>5</sup>The original data on vote share is continuous and represented as a percentage. To keep it simple, I recoded the variable as binary. If the prosecutor obtained a vote share of more than 60%, then the electoral pressure is considered to be low. Conversely, if the vote share was lower than 60%, the electoral pressure is considered to be high.

Prosecutors' *Drug Policy Mentioned* is also influenced by their constituents' concern for crime. Although the *Crime Issue Importance* effect is not statistically significant, there is a general pattern of issue importance associated with high responsiveness through policy mentioning. Figure 3.5 shows this pattern with a wide uncertainty. It reveals that in districts where the public considers crime to be of high importance, prosecutors' mentioning of drugs has a positive relationship with public preferences for drug decriminalization. However, in districts where the public evaluates crime as less important, the positive relationship pattern disappears. I present the regression table results in Appendix B5.

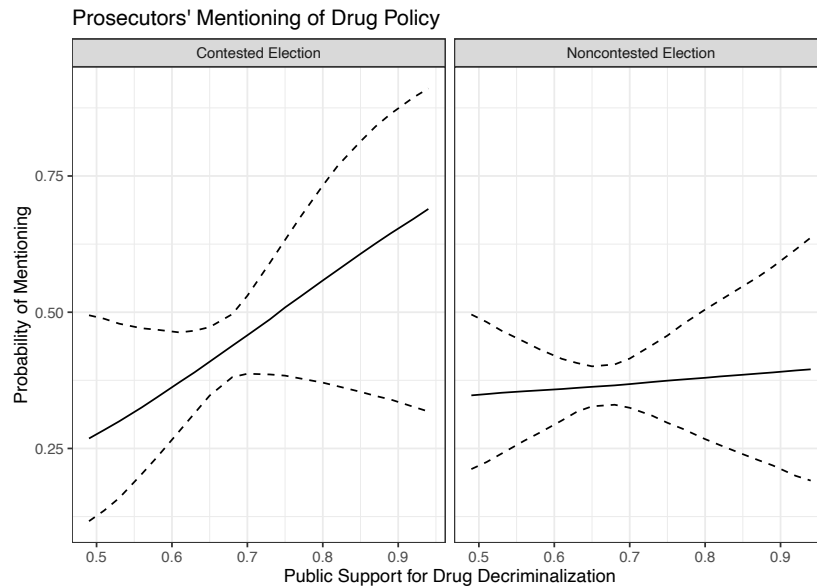


Figure 3.4: Probability of Prosecutors' Mentioning of Drug Policy By Electoral Pressure

The predicted probability of prosecutors mentioning drug policy as public support for the decriminalization of drugs increases. The left panel shows the changing predicted probabilities of a prosecutor mentioning drug policy if she was elected in a contested election, while the right panel shows the predicted probabilities if she was elected in a non-contested election.

#### PROSECUTORS' POSITION ON DRUGS

I present multinomial logit regression analyses of each prosecutor's self-ascribed policy position against public opinion. The numeric tabular results are shown in Appendix

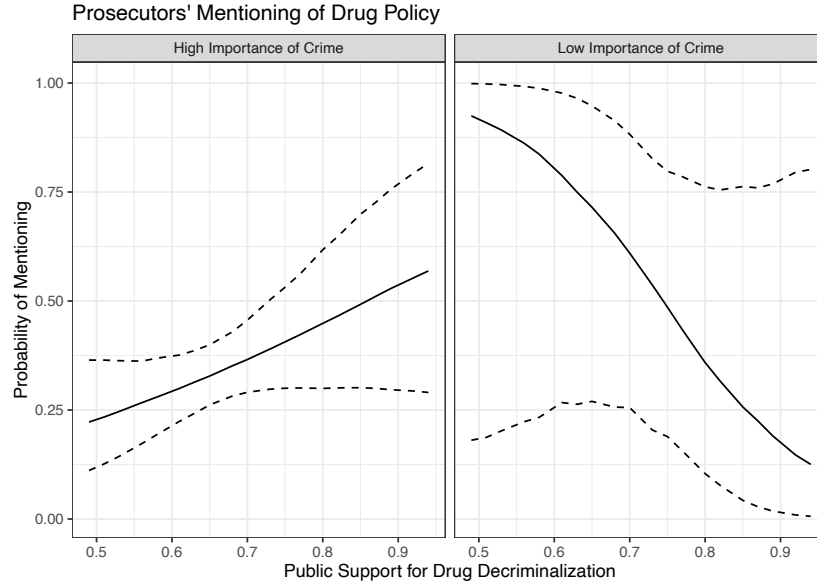


Figure 3.5: Probability of Prosecutors’ Mentioning of Drug Policy By Issue Importance

The predicted probability of prosecutors mentioning drug policy as public support for the decriminalization of drugs increases. The left panel shows the changing predicted probabilities of a prosecutor mentioning drug policy if her constituent considers crime to be an important issue, while the right panel shows the predicted probabilities if the constituent evaluates crime as a less important issue.

B6. As stated earlier, I am interested in the responsiveness of prosecutors, which I study by examining the relationship between public opinion on drug decriminalization and prosecutors’ stance on drug charges.

The outcome variable is *Prosecutors’ Positions on Drug*, which represents the stance of prosecutors on drugs decriminalization and encompasses four categories: policy not mentioned, neutral, disapproving, and supportive. Similarly to the previous model form, the explanatory variable, *Public Opinion on Drugs*, is a continuous variable representing county-level public preference on drug decriminalization. Additionally, I include county-level characteristic variables: *Democratic Vote Share*, *Crime Issue Importance*, *Contested Election*, and *Electoral Pressure*. Furthermore, I incorporate interactions between *Public Opinion on Drugs* and *Crime Issue Importance*,



as well as between *Public Opinion on Drugs* and *Contested Election* to see if the issue salience and electorate moderates responsiveness.

I expect that as public opinion on drug decriminalization rises, prosecutors will be more likely to adopt supportive positions on this policy. Moreover, this alignment is expected to intensify with higher levels of electoral pressure. Data analysis shows a positive relationship between policy-specific public opinion and prosecutors' policy position on drug decriminalization. When public support for drug decriminalization is higher, prosecutors are more likely to align themselves with this viewpoint.

To show the results, I plot the predicted probability of prosecutors adopting one of the four possible issue stances on drugs. As shown in Figure 3.6, the probability prosecutors support drug decriminalization (the right panel) is low when the public support for the decriminalization of drugs is also low, but as the average public opinion past 60%, the probability prosecutors support decriminalization begin to rise. This result supports that prosecutors will align their issue position with public opinion as public opinion on issues becomes more pronounced. However, the wide confidence intervals suggest that uncertainty is also high.

On the contrary, the probability of prosecutors adopting an opposing stance on decriminalization (the third panel) is higher when public support for decriminalization remains low, but as the average public support for decriminalization past 60%, the probability of prosecutors being disapproving drops from 13% to 6% points. However, there is also a wide range of uncertainty around the estimates.

#### PROSECUTORS' APPROACH TO PUNISHMENT

I also employ multinomial logit regression to model each prosecutor's approach to punishment in relation to public opinion. Specifically, I examine whether prosecutors' chosen approach, which can be categorized as either incarceration-based or

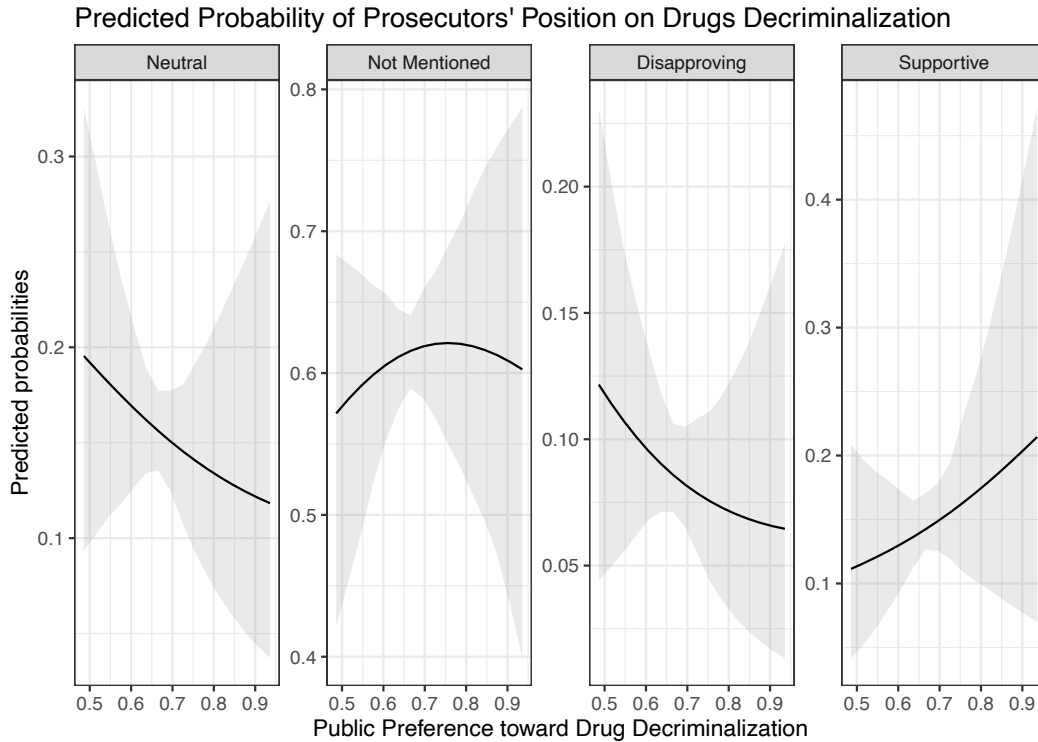


Figure 3.6: Prosecutors' Position on Drug Decriminalization

The predicted probability of prosecutor's position on drugs decriminalization as public support for decriminalization increases. The left panel shows the predicted probabilities of prosecutor stay in the "neutral" category; the middle for staying the "opposition" category, and the right panel for stay in the "support" category.

prevention-based, is influenced by public sentiment on criminal justice issues. To capture the level of public punitiveness, I use the measure of public opinion on eliminating mandatory minimum sentences for non-violent drug offenders.

I use a similar model form as before. In such a model form, the outcome variable is *Prosecutors Approach to Punishment*, which is a categorical variable representing prosecutors' positions on drug-related punishment with four categories: approach not mentioned, neutral, incarceration-based, and prevention-based. I include the county-level characteristics variables, such as *Democratic Vote Share*, *Importance of Crime Issue* as well as election characteristics, such as *Contested Election* and *Electoral Pressure*. I present the tabular result in Appendix B7.

I expect prosecutors to be responsive to county-level public opinion. When public preference about eliminating minimal sentences for non-violent drug offenses increases, it reflects that the public sentiment towards drug-related crime is more lenient. Therefore, I expect prosecutors to be more likely to adopt a prevention-based approach and less likely to adopt an incarceration-based approach to punishment as being responsive to the public.

Consistent with my expectations, I find that prosecutors are more likely to adopt a prevention-based approach to drug crimes when public support for reducing minimal sentences is high. Figure 3.7 plots the predicted probability of prosecutors adopting one of the four possible approaches to punishment, ranging from incarceration-based, prevention-based, neutral, to not mentioned. The probability of prosecutors adopting a prevention-based approach (the right panel) is as low as 15% when the public support for the decriminalization of drugs is below 50%, but when public support pasts 60%, the probability of prosecutors adopting prevention-based approach begin to grow, and such probability increases to 25% when the public support for drugs increases to 85%.

On the flip side, there is a negative relationship between prosecutors adopting an incarceration-based approach and the level of public support for reducing minimal sentences for drug crimes. As Figure 3.7 shows, the probability of prosecutors adopting an incarceration-based approach to crime is about 20%, and such probability drops to less than 5% as public support for reducing minimal sentences pasts 80%. In other words, as the public becomes more lenient on non-violent drug crime, prosecutors are less likely to adopt an incarceration-based approach to punishment.

### 3.5 CONCLUSION

My study of prosecutorial responsiveness, focusing on prosecutors' policy stance on drug decriminalization, reveals a somewhat promising electoral connection. I find that

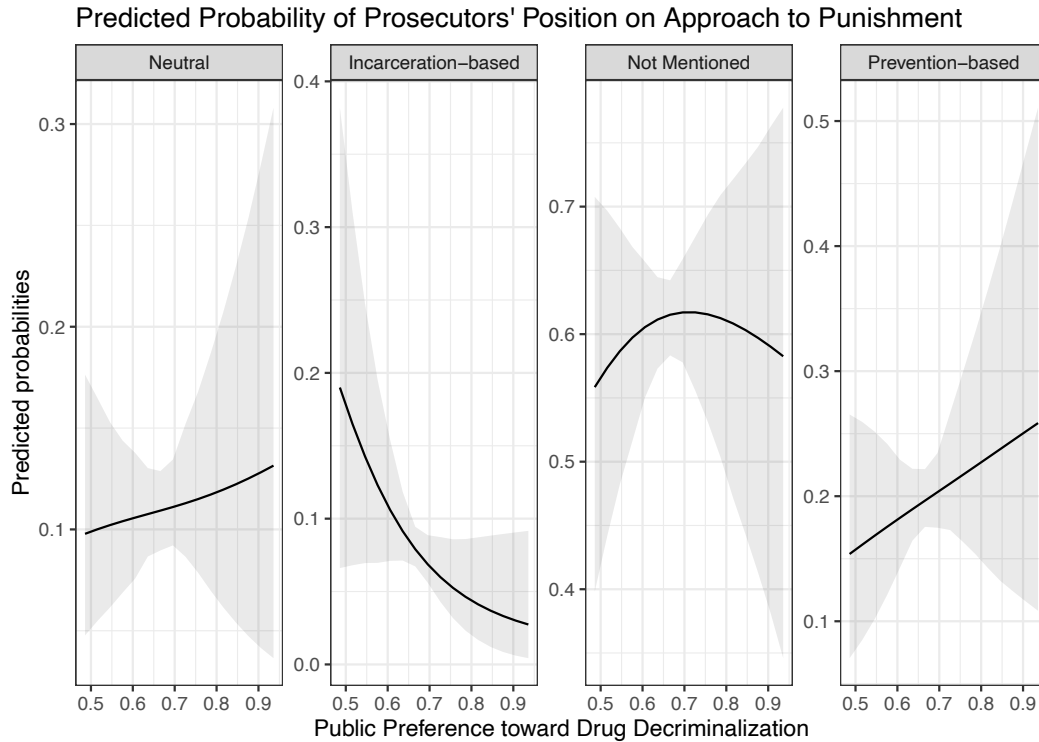


Figure 3.7: Predicted Probability of Prosecutors' Position on Approach to Punishment

The graph shows the predicted probability of a prosecutor's position on their approach to punishment. The left panel displays the predicted probabilities of prosecutors staying in the "neutral" category, followed by those taking an "Incarceration-based" approach, and then those falling under the "Not Mentioned" category. The right panel shows the predicted probabilities for prosecutors adopting a "prevention-based" approach.

prosecutorial politics is responsive to the public will but in a contingent manner. Local public preference has an effect on chief prosecutors' mentioning of drugs and their handling of non-violent drug charges in their jurisdictions. When local constituents are more inclined to support drug decriminalization, prosecutors are more likely to discuss drugs and adopt a prevention-based approach when handling drug charges.

More broadly, my results provide a new understanding of the factors driving the policy responsiveness of local prosecutors. I find that local control over prosecutorial behavior is particularly influenced by the electoral pressure that prosecutors face. The opinion-responsiveness connection is stronger when prosecutors are selected through

contested elections. This could be attributed to the fact that in contested elections, voters have more choices and tend to select candidates who align with their policy preferences. Additionally, prosecutors may pay closer attention to public sentiment and cater to the desires of voters, knowing that they are facing a competitive electoral environment. Furthermore, my findings indicate that the strength of the opinion-responsiveness connection is heightened when local constituents perceive crime as an important issue. This can be attributed to prosecutors being more receptive when they have specific information regarding constituent preferences, such as the public's recognition of crime as a pressing concern.

These findings enrich the ongoing discourse regarding the extent to which elections serve as a powerful mechanism for holding prosecutors accountable. There has been a longstanding perception that prosecutorial elections are insufficient in addressing issues within the criminal justice system. The basis for this pessimistic view stems from the notion that prosecutorial campaigns are disconnected from their policies (Wright, 2008) and that the general public often lacks information about the operations and performance of prosecutors' offices (Gold, 2011). Existing discussion on electoral influence, at best, primarily centers around the notion that prosecutors may be driven to adopt a punitive approach out of fear of being labeled as soft-on-crime (McCannon, 2013; Bandyopadhyay and McCannon, 2014). My findings reveal another pattern. They demonstrate that a pro-lenient public preference has the potential to influence prosecutorial behavior towards adopting a more lenient approach, thereby providing implications for addressing the issue of over-punitiveness in the American criminal justice system. By highlighting the importance of electoral control, especially in the context of competitive elections, and by enhancing the visibility of pertinent issues, we can examine the impact of harnessing public preferences to mitigate harsh punishment and strengthen accountability within the justice system.

Future research could explore factors influencing prosecutors' decisions to announce their policy positions. Based on my crowd-coded data, it appears that only around 30% incumbent prosecutors address drug policy on their websites. There could be several reasons why prosecutors choose not to announce their policy stances. For example, drug crime may not be a top priority in their jurisdiction, or they may avoid taking positions due to the highly polarized nature of the drug issue in their jurisdiction. In a democratic society, voters' ability to evaluate elected officials' performance and policy alignment begins with examining their policy positions, if available. Therefore, it is important for further research to understand the actors that influence prosecutors' decisions to either openly discuss or refrain from addressing their policies.

Finally, my findings invite future research to discuss the appropriate role of prosecutors in society. Prosecutors face a multitude of expectations, some of which may conflict with one another. On the one hand, they are expected to act as impartial enforcers of justice, but as elected officials, they may also be anticipated to actively advocate for political views. Balancing their responsibility to adhere to the law while exercising discretion raises questions about the roles they play in the legal system. Although my research does not directly tackle normative questions, it shows the susceptibility of prosecutors to the influence of the majority will, indicating a level of responsiveness. This leads us to consider the extent to which we should be concerned about prosecutors aligning with the majority will and whether they should adopt a more political role or remain isolated as law enforcers.

## CHAPTER 4

### POLITICAL ELITES AND APPOINTED PROSECUTORS

In August 2020, a coalition of local non-profit and religious organizations wrote a letter to Governor Phil Murphy of New Jersey, urging him to remove Frederic Knapp as Morris County's prosecutor and appoint someone who can tackle racial incarceration disparities. The groups pointed out that both local and statewide data highlight concerning racial disparities in the Morris County criminal justice system, with the prosecutor's office being a major contributor to the "driving racial disparities" in the state's prison population (Gomez, 2020). About one month later, Governor Murphy announced that he will appoint Robert Carroll, a veteran attorney with 40 years of experience serving as a state assistant attorney general and acting prosecutor, as the next Morris County Prosecutor.<sup>1</sup> Meanwhile, Frederic Knapp announced his retirement amid controversy over racial inequalities in the criminal justice system (Wildstein, 2020).

The example provides anecdotal evidence that governors hold significant power in appointing prosecutors in states with appointed-based systems to select prosecutors and that public influence may play a role in shaping their actions. The question of how prosecutors are chosen and held accountable is crucial due to their influential position in the criminal justice system. In the previous chapters, I examine how voters pick prosecutors and prosecutors' responsiveness to voters in election-based systems. In this chapter, I focus on the relationship between governors and appointed prosecutors in states that use appointment-based systems. Since there is not much

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<sup>1</sup>Press release from Governor Murphy's office on September 9, 2024. Url: <https://rb.gy/qkgdl>

existing research on appointed prosecutors, my approach is more descriptive and exploratory. My investigation is guided by two key questions: first, what do we know about the politics of the appointment of prosecutors; second, what factors shape the responsiveness between appointed prosecutors and governors?

To address these questions, I analyze self-collected data on governors and appointed prosecutors, focusing on their issue positions regarding drug charges. I use the case of New Jersey, which uses appointment-based systems for selecting local prosecutors, as a primary example for my research. My analysis shows that appointees' experience is an important factor in appointing prosecutors. Furthermore, I observe that the responsiveness in this relationship is primarily influenced by the selection effect led by the governor rather than prosecutors adjusting their positions in response to a new governor when there is a change in leadership.

This chapter makes a few contributions to the understanding of prosecutors and their relationship with governors in appointment-based systems. First, it makes the initial effort to understand the politics of the appointment of prosecutors. I find that prosecutors' experience and the potential for policy alignment, based on their prior experience, are crucial factors in the appointment process. For instance, prosecutors with experience in drug crimes, such as serving on a narcotics task force, can be considered a valuable experience for governors who are focused on combating drug-related problems. Second, I also find the governor-led selection effect plays an important role in shaping the responsiveness of appointed prosecutors.

#### 4.1 POLITICAL APPOINTMENT AND POLICY RESPONSIVENESS

Similar to other research on actors within the bureaucracy, I approach the role of appointed prosecutors through the lens of the principal-agent relationship framework. Political scientists, building upon economic concepts associated with the principal-agent framework, have adapted and tailored these ideas to political settings, partic-



ularly when examining bureaucratic accountability in hierarchical relationships. In the principal-agent framework, the core idea is characterized by the delegation of authority, where an agent is entrusted with undertaking actions on behalf of a principal (Gailmard, 2012*b*).

Although principals desire agents to pursue tasks aligned with their goals, agents may deviate from the principal's objectives due to conflicting goals between the agent and the principal, as well as the presence of information asymmetry where certain task-related information is unavailable to the principal. Principals have several methods to minimize these problems, such as careful screening and selection of agents (Kiewiet and McCubbins, 1991); or monitoring and oversight of agents' performance (McCubbins and Schwartz, 1984); or using sanctioning tools to keep agents in line, which may involve terminating the delegation of authority when agents failed to carry out the principals' tasks satisfactorily (Perry Jr, 1998).

Appointed local prosecutors can be thought as agents who act on behalf of the state governor. While state legislatures are involved in confirming the governor's nominations, this confirmation process often operates under the principle of senatorial courtesy. Therefore, I focus on governors as the principal in this context. Governors may employ various methods to ensure the responsiveness of appointed prosecutors to their directives. In a simplified view, this responsiveness can be influenced by two mechanisms: *ex ante* screening and selection mechanism, or *ex post* oversight mechanism where governors impose ongoing supervision and prosecutors continually adapt their behavior to align with the governors' policy preferences. In this chapter, I examine which mechanism drives the policy responsiveness between governors and appointed prosecutors.

#### 4.1.1 SCREENING EFFECT

The careful screening and selection of agents often serve as the most direct and effective mechanism of agent control for principals (Van Houten, 2009). In the selection process, principals aim to carefully screen candidates to select agents who are most likely to carry out the principals' goals faithfully. Principals may achieve this through rigorous background checks and looking at candidates' prior histories. For instance, in studies of the appointments of U.S. Attorneys, scholars find that American presidents increasingly appoint lower-court judges who adhere to their philosophy (Perry Jr, 1998); by examining their behaviors as judges, presidents can ensure that the candidates' political preferences align with theirs. Another approach to ensure the selection of like-minded U.S. Attorneys is to choose co-partisans. In his study, Eisenstein (2007) find that the administration of George W. Bush actively sought to appoint U.S. Attorney nominees who aligned with the administration's goals. They also requested those not complying with their policy objectives to step down from their positions (Eisenstein, 2007). Studies have consistently demonstrated that presidents aim to exert control over U.S. Attorneys through politically motivated appointments (Nelson and Ostrander, 2016). As a result, most U.S. Attorneys share overarching prosecutorial preferences with their appointing principal.

When it comes to governors acting as principals for appointed prosecutors, the selection process is an important first step to ensure the alignment of interests. While research on this topic is limited, historical studies indicate that patronage appointments were common during the 18th century when most of the states used appointment-based systems to select local officials (Ellis, 2011). Governors frequently use appointments as means to reward political allies, and party affiliation plays a substantial role in the selection process. Consequently, appointed prosecutors, like other appointed government officials, tend to prioritize the partisan interests that led to their appointments. Contemporary research on gubernatorial appointments of state

judges also demonstrates that governors generally appoint judges from the same political party. However, the probability of a cross-party appointment increases when a state utilizes a judicial nominating commission and when an opposition party has control over the confirmation process (McLeod, 2012).

In this vein, similar to the political appointment of U.S. Attorneys and state judges, I expect that governors would prefer appointing prosecutors who share similar political views. This wish can be achieved through various means, such as considering potential nominees' prior careers and party affiliation. By selecting prosecutors who align with their political views, governors can ensure that their policy agenda is effectively executed within the criminal justice system. Therefore, the alignment of political views between governors and appointed prosecutors serves as a mechanism to enhance policy congruence and strengthen the governor's influence over prosecutorial outcomes.

#### 4.1.2 OVERSIGHT EFFECT AND PROSECUTORS' RESPONSIVENESS

Of course, responsiveness can be influenced by appointees paying attention to the changing preferences of their selectors and adjusting their positions accordingly. This may require the principal to demonstrate their ability to sanction and oversight. However, monitoring the behavior of prosecutors can be inherently challenging, as highlighted in the literature on U.S. Attorneys. The complex and high-stakes nature of the criminal justice system and informational asymmetries make it difficult to monitor their conduct effectively. In the case of U.S. Attorneys, the President often relies on the Attorney General and the Department of Justice to oversee U.S. Attorneys' behavior and ensure their responsiveness. Through mechanisms such as performance evaluations, regular communication, and policy directives, the Attorney General plays a crucial role in monitoring the conduct of U.S. Attorneys and

can impose sanctions when necessary to ensure their alignment with the principal's preferences.

Similarly, governors may rely on the state's Attorney General to oversee local prosecutors and establish their policy agendas. In the case of New Jersey, the Attorney General is also appointed by the governor. The Attorney General may act as a surrogate for the governor in overseeing the local prosecutorial activities, ensuring that their policies and priorities are consistent with the governor's agenda. This alignment between the governor and the Attorney General enhances the governor's influence and control over locally appointed prosecutors' behavior in these states.

Furthermore, the public can potentially help with overseeing prosecutorial behavior, too. While the public often faces challenges in obtaining comprehensive information about a district attorney's performance, as noted by Wright (2008), there are instances where high-profile cases or issues garner significant attention. In such cases, the public, along with social groups and organizations, can play a crucial role in monitoring the behavior of prosecutors. They can serve as watchdogs, raising awareness of any misconduct or discrepancies in prosecutorial actions.

In this vein, I consider that appointed prosecutors would often find themselves aligning their issue positions with governors due to a combination of career aspirations and the presence of oversight mechanisms. As prosecutors appointed by the governor, they may be aware that demonstrating alignment with the governor's policy agendas can bolster their own career prospects and increase their chances of future advancements within the legal system. Moreover, governors may impose oversight over prosecutorial actions, ensuring that their policy directions are followed. Any form of oversight mechanism creates an incentive for appointed prosecutors to align their positions with those of the governor. That said, prosecutors may be inclined to demonstrate responsiveness to the governor's policy preferences to enhance their prospects for reappointment or future career opportunities.

In this context, the alignment between appointed prosecutors and their appointing authority governor seems intuitive. However, what happens when a new governor assumes office? How might a change in leadership influence prosecutorial responsiveness? Responsiveness implies change over time, and a responsive political actor will change behaviors following a change in the wishes of constituents. The question I pose in this context is: do appointed prosecutors adjust their positions in accordance with different governors in power?

The question of whether prosecutors would change their positions when leadership changes rarely arises in the case of U.S. Attorneys, as they are typically directed to resign when a new administration assumes office. For example, a notable case was when President Bill Clinton fired all 93 U.S. Attorneys in March 1993. Similarly, President Trump also directed all Obama-appointed U.S. Attorneys to resign in 2017 (Christophi, 2017). Sometimes, even within the same presidential administration, when priorities shift, the White House may replace a few U.S. Attorneys to align with the new political agenda. One prominent example occurred when President George W. Bush was elected for his second term, and his administration decided to remove a significant number of incumbent U.S. Attorneys to advance their political agenda (Miller and Curry, 2019). As shown in George W. Bush's Chief of Staff's communication with the Deputy White House Counsel: "*We would like to replace 15-20 percent of the current U.S. Attorneys—the underperforming ones...The vast majority of U.S. Attorneys, 80-85 percent, I would guess, are doing a great job, are loyal Bushies.....*" (OIG Report 2008). The above examples suggest that the president-led selection effect plays an important role in shaping the responsiveness of U.S. Attorneys to the Presidents.

However, the situation differs for local prosecutors, as governors may change over time while appointed prosecutors have the potential to be re-appointed and serve multiple terms. Therefore, I am interested in understanding the dynamics between

governors and appointed prosecutors. Do they face similar directed resignations as U.S. Attorneys? Moreover, do appointed prosecutors adapt their positions based on changes in the governor's leadership?

Experiences from legislative studies suggest that legislators sometimes change their positions to be responsive to their constituents. Legislators generally take policy positions that align with their local constituents. However, when significant changes occur that contradict their previously held positions, they may have an incentive to update their political stances to align with their constituents, although this shift carries the risk of being perceived as unreliable (Bender and Lott, 1996; Lott Jr and Bronars, 1993). Similar to the literature on political responsiveness, Cayton (2017) suggests that legislators may experience pressure to reflect changing positions, particularly in competitive or well-educated districts, compared to less competitive and less educated districts. In these districts, the incentive to stay in sync with the evolving needs and perspectives of their constituents is higher and often outweighs concerns about being perceived as "flip-floppers."

As noted, there is limited existing research on county-level appointed prosecutors. My inquiry is exploratory in nature. In the following section, I use New Jersey as a case to look into the dynamics between governors and appointed prosecutors.

#### 4.2 CASES: APPOINTED PROSECUTORS IN NEW JERSEY

New Jersey has 21 counties, and each county has its own lead prosecutor. The State of New Jersey's constitution dictates that County prosecutors must be nominated and appointed by the governor with the Senate's advice and consent. Once appointed, prosecutors serve a five-year term and have the possibility of being reappointed. Additionally, New Jersey's Statutes also dictate that the governor may remove a county prosecutor from office for cause following a public hearing, proper notice, and an opportunity for the prosecutor to present a defense.

#### 4.2.1 MARIJUANA ENFORCEMENT IN NEW JERSEY

I pick drug policies as the issue area to examine political responsiveness, as it is a salient topic with divergent support among politicians. The politics of marijuana enforcement in New Jersey have undergone significant shifts in the past few decades. New Jersey was one of the states that launched a war on drugs in the 1970s. The state administration previously adopted aggressive marijuana law enforcement, with law enforcement agencies dedicating significant resources to drug-related arrests. For example, federal reports indicate that in 2017, New Jersey police arrested over 34,000 individuals for marijuana possession, placing it among the top three states in terms of arrests (Guion and Petenko, 2019). On average, prior to 2021, the annual number of marijuana-related arrests in New Jersey was close to 35,000. This high rate of enforcement of marijuana laws often served as a gateway into the criminal justice system, disproportionately impacting Black and brown individuals (Guion and Petenko, 2019).

The political landscape of marijuana enforcement began to change in 2016 with the emergence of advocacy groups that issued reports and lobbied for legalization (Livio, 2016). Subsequently, the state legislature made its first attempt to legalize cannabis during the years 2018 to 2019, but the efforts were not successful (Davis and Pugliese, 2018). Despite the failed attempt, the state legislature passed a bill to put a marijuana referendum on the 2020 ballot. In 2020, New Jersey voters approved the question of legalizing the recreational use of cannabis by people aged 21 and older, with approximately 67% voting in favor of marijuana legalization (Avila, 2020).

Following the voter's approval, initial bills on legalization and decriminalization were sent to Governor Murphy at the end of 2020. However, he objected to the first version due to inconsistencies in the language of both bills (Sutton, 2021). After a few rounds of changes, Murphy signed the adult-use cannabis reform bills into law in February 2021 (Hoover, 2021).

Examining drug policy, particularly the issue of marijuana legalization, provides a good case for studying prosecutors' responsiveness to governors. This is because different governors in New Jersey have held distinct views on marijuana legalization, allowing for a comparison of their differences in drug policy stances. Governor Murphy, for instance, has demonstrated strong support for marijuana legalization since his 2017 campaign (Marcus, 2018). In contrast, former governors, such as Chris Christie, have been more hesitant and have opposed legalization efforts (Hutchins, 2017). This divergence in gubernatorial positions on drugs offers a good opportunity to assess whether appointed prosecutors adapt their stances based on changes in leadership and the governor's policy preferences. By examining how prosecutors navigate the shifting political landscape on drug-related charges, we can gain insights into their responsiveness to governors.

#### 4.2.2 THEORETICAL EXPECTATIONS

As discussed earlier, in this chapter, my inquiries are guided by two questions: first, what explains the politics of prosecutorial appointment? Second, are appointed prosecutors responsive to governors?

On the first question, what drives the politics of appointment? Following existing research on U.S. Attorney's appointments and gubernatorial appointments, I expect that appointing authorities, such as governors, will select candidates who share similar ideologies for key positions within their administration. That said, I expect governors to look for potential political alignment candidates when appointing new prosecutors. We might observe a high degree of policy congruence in governors' nominees.

As for the second question, I then examine the responsiveness between appointed prosecutors and governors. As the responsiveness may be influenced by a governor-led selection effect or by the appointed prosecutors themselves adjusting their behavior and policy approaches to align with the preferences of the new governor, I break this



question into two parts: first, are prosecutors' issue positions aligned with governors in their initial term? Second, do prosecutors change their policy positions when a new governor comes to office?

On the question of whether prosecutors are responsive to their initial appointing authority, my expectation is yes. Given that governors may already select candidates based on ideology congruence, their positions on criminal justice issues are likely close to those of the governors. Furthermore, forward-thinking prosecutors may have aspirations for future career advancement within the legal or political sphere. By being responsive to the governor's agenda, they can build a favorable reputation and potentially increase their chances of future appointments or opportunities.

Regarding the potential for prosecutors to alter their behavior in response to changes in leadership, I anticipate that such changes are less probable. Similar to legislators, appointed prosecutors might avoid being labeled as flip-floppers if they change their positions. Governors may perceive this behavior as unreliable, and partisan activists might have a preference for candidates who display greater consistency (Masket, 2011). As such, I expect that appointed prosecutors are very unlikely to adjust their position in order to stay in office when new leadership takes office.

### 4.3 DATA

I use New Jersey as an example and examine the relationship between governors and appointed prosecutors from 2010 to the present. I begin by analyzing the governors' stances on drug-related issues.

#### 4.3.1 GOVERNOR'S ISSUE POSITION ON DRUGS

##### GOVERNOR CHRISTOPHER CHRISTIE OF NEW JERSEY (2010-2018)

To estimate Governor Christie's stance on drugs, I look at news articles that discussed how Christie spoke about drugs during his time as governor. Prior to becoming gov-

ernor, Christie served as the U.S. Attorney for New Jersey, where he fought against political corruption and terrorism. After he assumed the role of New Jersey's governor, he consistently expressed his strong opposition to drug legalization (Hutchins, 2017). His positions were exemplified in several public speeches. In 2012, when the New Jersey Assembly committee unanimously approved a bill (A1465) to decriminalize marijuana possession, Chris Christie publicly vowed to veto the bill. During a town hall meeting in Readington, Governor Christie stated, "*The federal government still says marijuana is an illegal drug,*" and "*I don't think we should send any sort of tacit approval to our children that somehow this is not bad anymore*" (Livio, 2012)."

In 2015, during Christie's presidential campaign, he also demonstrated a strong stance against the legalization of marijuana in the media. For instance, in July 2015, while discussing marijuana enforcement on "Fox and Friends," Christie stated, "*Marijuana is against the law in the states and it should be enforced in all 50 states,*" and further added, "*That's the law and the Christie administration will support it.*" A few days later, he reiterated his position at a town hall event in Newport, New Hampshire, saying, "*When you take an oath of office, you're agreeing to enforce the laws. President Barack Obama has ignored the law and looked the other way as states like Colorado and Washington have moved toward legalization*" (Collins, 2015)."

Even though Christie's position on drugs seemed to become softer in the last year of his term as governor (Jaeger, 2018), I classify Christie's stance on drugs as opposing the legalization of marijuana, based on his public statements from 2010 to 2018.

#### GOVERNOR PHILIP MURPHY OF NEW JERSEY (2018-CURRENT)

I also examine Philip Murphy's public statements to understand his position on drug-related issues. Murphy took office in 2018. Prior to becoming governor, he served as the United States Ambassador to Germany (2009-2013), appointed by President Obama, and he also served on the national Board of the NAACP (2015-2017).

Before assuming the role of governor, Murphy had already campaigned on the proposal to legalize recreational marijuana, demonstrating his support for marijuana legalization (Marans, 2017). After assuming office as governor of New Jersey, he has consistently shown a supportive position on drug legalization. One year into his term, he publicly urged the state Legislature to pass sensible decriminalization legislation as soon as possible and called for law enforcement to reduce arrests for marijuana possession (Davis, 2019b). When asked about marijuana enforcement, he expressed his concern about the high number of drug-related arrests and the disproportionate impact on people of color by stating, "*Maintaining a status quo that sees roughly 600 individuals, disproportionately people of color, arrested in New Jersey every week for low-level drug offenses is wholly unacceptable*" (Johnson and Hoover, 2019).

In February 2021, Murphy signed into law a legalization and decriminalization bill after the Democrat-led Assembly and Senate passed it. The bill aimed to ease penalties on underage possession of both alcohol and marijuana. "*Our current marijuana prohibition laws have failed every test of social justice, which is why for years I've strongly supported the legalization of adult-use cannabis,*" Murphy said on news media (Biryukov, 2021).

Based on Murphy's public statements and his action of signing the legalization and decriminalization bill into law, I classify Governor Murphy's stance on drugs as being supportive of the legalization of marijuana.

#### 4.3.2 APPOINTED PROSECUTORS' ISSUE POSITION

##### APPOINTED PROSECUTORS' PROFILES AT THE TIME OF APPOINTMENT

To understand what influences governors' selection of prosecutors, I collect news articles and press releases that cover the appointment of new prosecutors taking office. These articles tend to provide a brief introduction to the background of the

new prosecutor. Below, I present a sample press release. In this chapter, I compile the background profiles of appointees chosen by Governor Christie and Governor Murphy.

Attorney General Gurbir S. Grewal today announced that Camden County Prosecutor Mary Eva Colalillo will retire at the end of the month and Jill S. Mayer will serve as Acting Camden County Prosecutor effective October 1. Mayer, who currently serves as a Deputy Director in the Division of Criminal Justice, has 24 years of experience handling criminal investigations and prosecutions.

During her more than two-decade tenure at the Division of Criminal Justice, Mayer has prosecuted cases involving violent gang members, drug dealers, financial crimes, racketeering, and casino crimes....One example of Deputy Director Mayer's violent crime expertise is her supervision of the 2014 dismantling of a violent narcotics distribution enterprise, with ties to Mexican drug cartels, that was dealing millions of dollars a year in heroin and cocaine in Camden. She prosecuted numerous large-scale racketeering and leader of narcotics trafficking network cases in Camden during her more than 16 years as a deputy attorney general in the Gangs & Organized Crime Bureau.... (Press Release from New Jersey's Attorney General Office on September 19, 2019)

#### APPOINTED PROSECUTORS' ISSUE POSITION AS OFFICE HOLDERS

To examine whether incumbent prosecutors adjust their behavior as leadership changes, I also gather data on prosecutors' issue positions from 2016 to 2022. This period coincided with a change in leadership in the state of New Jersey, as some prosecutors were appointed by former Governor Christopher Christie (Republican, 2010-2018), while others were appointed by the current Governor Philip Murphy (Democrat, 2018-present).

To obtain prosecutors' issue positions at different time points, I use the Wayback Machine to extract information from the websites of incumbent prosecutors regarding their approach to handling drug-related cases between 2016 and 2022. The collected data demonstrates their issue positions pertaining to drug charges during their time in office, as presented in Tables 4.1 and 4.2.

Table 4.1: Appointed Prosecutors in New Jersey under Christie Administration in Year 2017

Districts	Prosecutors	Appointing Governor	Tenure	Mention	Issue Position	Congruence
Atlantic	Damon Tyner	Christie	2017-21	0	0	0
Bergen	Gurbir Grewal	Christie	2016-18	1	Tough on drug	1
Burlington	Scott Coffina	Christie	2017-22	0	Tough on drug	1
Camden	Mary Colalillo	Christie	2014-19	0	0	0
Cape May	Robert Taylor	Christie	2004, 2010-17	1	0	1
Cumberland	Jennifer Webb-McRae	Corzine	2010-present	0	0	0
Essex	Carolyn Murray	AG Dow	2011	0	0	0
Gloucester	Sean Dalton	Corzine	2002-17	0	0	0
Hudson	Esther Suarez	Christie	2015	0	0	0
Hunterdon	Anthony Kearns	Christie	2010-19	1	Tough on drug	1
Mercer	Joseph Bocchini Jr.	Corzine	2004-09	0	0	0
Middlesex	Andrew Carey	Christie	2013-19	0	Treatment-based	0
Monmouth	Christopher Gramiccioni	AG Chiesa	2016-2021	1	Tough on drug	1
Morris	Fredric Knapp	Christie	2014-20	1	Tough on drug	1
Ocean	Joseph D. Coronato	Christie	2013-18	0	Tough on drug	1
Passaic	Camelia Valdes	Corzine	2009	0	0	0
Salem	John Lenahan	Christie	2014-21	0	0	0
Somerset	Michael Robertson	Christie	2016-22	0	0	0
Sussex	Francis A. Koch	Christie	2014-2022	0	0	0
Union	Grace H. Park	Christie	2013-17	0	0	0
Warren	Richard T. Burke	Christie	2012-19	1	Tough on drug	1

Table 4.2: Appointed Prosecutors in New Jersey under Murphy Administration in Year 2022

Districts	Prosecutors	Appointing Governor	Starting	Mention	Issue Position	Congruence
Atlantic	William Reynolds	Murphy	2022	0	0	0
Bergen	Mark Musella	Murphy	2019	1	0	0
Burlington	LaChia Bradshaw	Murphy	2022	1	Treatment-based	1
Camden	Grace MacAulay	Murphy	2021	1	Treatment-based	1
Cape May	Jeffrey Sutherland	Christie	2017	0	0	0
Cumberland	Jennifer Webb-McRae	Corzine	2010	0	0	0
Essex	Theodore Stephens II	Murphy	2018	0	0	0
Gloucester	Christine Hoffman	Murphy	2020	1	Treatment-based	1
Hudson	Esther Suarez	Christie	2015	1	Treatment-based	1
Hunterdon	Renee M. Robeson	Murphy	2021	0	0	0
Mercer	Angelo J. Onofri	Christie	2016	1	Treatment-based	1
Middlesex	Yolanda Ciccone	Murphy	2020	0	0	0
Monmouth	Raymond Santiago	Murphy	2022	1	Treatment-based	0
Morris	Robert Carroll	Murphy	2022	0	0	0
Ocean	Bradley Billhimer	Murphy	2018	1	Treatment-based	1
Passaic	Camelia Valdes	Corzine	2009	0	0	0
Salem	CKristin Telsey	Murphy	2021	0	0	0
Somerset	John McDonald	Murphy	2021	0	0	0
Sussex	Anmarie Taggart	Murphy	2022	0	0	0
Union	William Daniel	Murphy	2021	0	0	0
Warren	James Pfeiffer	Murphy	2019	0	0	0

## 4.4 DESCRIPTIVE RESULTS

### 4.4.1 GOVERNORS' CHOICE OF APPOINTMENTS

Before discussing responsiveness, I first provide some descriptive observations regarding the governors' appointments of prosecutors.

## GOVERNOR CHRISTIE

Christie assumed office in January 2010. His background as a former U.S. Attorney provided him with an advantage in terms of utilizing his network to recruit prosecutors from federal law enforcement who had experience in handling narcotics cases or violent crimes. Two noteworthy examples of his appointments include Andrew Carey as the Middlesex County prosecutor and Michael Robertson as the Somerset County prosecutor. Both individuals bring valuable experience in combating drug-related issues from their tenure at the U.S. Attorney's office.

In 2013, it was Christie first recruited a prosecutor from U.S. Attorney's office. He appointed Andrew Carey as the Middlesex County prosecutor. Prior to this appointment, Carey served as an Assistant U.S. Attorney in the U.S. Attorney's Office in Newark, where he held the position of chief of the narcotics unit and Organized Crime Drug Enforcement Task Force.<sup>2</sup> As the county prosecutor of Middlesex County, Carey implemented various initiatives, including mental health training for law enforcement, the establishment of an Elder Abuse and Exploitation Team, a focus on best practices for school safety and juvenile matters, and efforts to address the current drug crisis through programs and symposiums that emphasize prevention, treatment, education, and effective law enforcement (Russell, 2019).

In 2016, Christie again appointed another candidate from the U.S. Attorney's office. He appointed Michael Robertson as the Somerset County Prosecutor. Before being appointed as a county prosecutor, Robertson also served as an Assistant U.S. Attorney of the Newark office, where he had previously worked with Christie before he became governor (Hutchinson, 2016). He has experience in the Health Care Fraud Unit, Organized Crime and Gangs Unit, and the Violent Crimes Unit. Prior to that,

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<sup>2</sup>Press release from Governor Christie's office on March 28th, 2013.

Robertson also worked as an Assistant Prosecutor in the Essex County Prosecutor's Office for three years.

In the same year, Christie appointed Gurbir Grewal, who also had experience in the U.S. Attorney's office. Prior to becoming the prosecutor of Bergen County, Grewal served as the chief of the economic crime unit at the U.S. Attorney's office in New Jersey. After assuming the role of Bergen County prosecutor, he gained recognition for his focus on combating the opioid epidemic and white-collar crime (Katzban, 2017). Grewal's performance garnered bipartisan support. In 2018, Grewal was appointed by Governor Murphy to be the state's attorney general.

In addition to recruiting prosecutors from federal law enforcement, Christie's nominations reflect a broader consideration of candidates. One important factor for Christie is their experience in the legal system. Many of his appointees have a strong background in the legal system as judges or lawyers. For instance, Esther Suarez of Hudson County served as a Superior Court judge, bringing a valuable judicial experience to her role (Zeitlinger, 2015). Charles Fiore of Gloucester County has over 30 years of practice in a private law firm, providing extensive legal expertise (Bellano, 2017). Mary Eva Colalillo of Camden County also served as a Superior Court judge and had previous experience as a trial judge and assistant prosecutor for the Camden County Prosecutor's Office. Scott Coffina of Burlington County has served as counsel to Governor Christie since 2015. Prior to that, Coffina had a diverse background, including working in private practice, serving as an assistant U.S. Attorney, and holding the position of associate counsel to George W. Bush in the White House (Levinsky, 2017).

Overall, Christie's appointments demonstrate an approach to selecting prosecutors, considering both their experience in the legal system and their specialized knowledge in areas such as narcotics, violent crimes, and white-collar crime. Furthermore,

Governor Christie's background as a former U.S. Attorney enabled him to leverage his expertise in recruiting candidates with experience in handling narcotics cases.

#### GOVERNOR MURPHY

Governor Murphy assumed office in 2018. In his first year, he appointed two new county prosecutors: Theodore N. Stephens for Essex County and Brad Billhimer for Ocean County. In the press release announcing Stephens' appointment, Governor Murphy provided a neutral statement focusing on Stephens' public service contributions. He stated, "*Ted has dedicated his life to public service, and his years of experience and knowledge will allow him to serve as a strong leader in this role. I look forward to working with Ted as he fulfills the mission of seeking justice for the people of New Jersey.*"<sup>3</sup> Indeed, before he was appointed Prosecutor, Stephens had a notable background. He was elected as the Essex County Surrogate in 2011 and had extensive experience serving in municipal courts. Stephens was appointed as a judge for the East Orange Municipal Court and served on the City of Orange Township Municipal Court bench for 17 years.<sup>4</sup>

Billhimer has deep roots in Ocean County, New Jersey. He began his legal career as a law clerk for Superior Court Judge Barbara Ann Villano in Ocean County. Before he was nominated as a prosecutor, Billhimer spent 17 years in private practice as a criminal defense attorney. Governor Murphy highlighted Billhimer's accomplishments and local ties in his announcement, stating, "*Brad Billhimer is an accomplished attorney with deep roots in Ocean County, where he has practiced criminal law for nearly two decades and has served as a leader in the legal community.*"<sup>5</sup> While Governor Murphy's statement primarily focused on Billhimer's experience, Attorney Gen-

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<sup>3</sup>Press release from Essex County Prosecutor's Office on October 9th, 2018.

<sup>4</sup>Press release from Governor Phil Murphy's Office on September 4th, 2018.

<sup>5</sup>Press release from Governor Murphy's office on October 9th, 2018.



eral Gurbir S. Grewal provided additional insight, mentioning Billhimer's focus on addressing the opioid crisis and expressing his anticipation to collaborate on those efforts and other priorities. *I know that Prosecutor Billhimer is focused on addressing the opioid crisis, and I look forward to working with him to advance those efforts and other priorities.*<sup>6</sup> said Attorney General Gurbir S. Grewal.

In 2019, Governor Murphy appointed two additional prosecutors: Mark Musella for Bergen County and James Pfeiffer for Warren County. Musella, who also has deep roots in Bergen County, began his legal career as an Assistant Prosecutor in Bergen County from 1988 to 1994. He then pursued criminal and civil litigation as an attorney and served as Municipal Prosecutor in Hasbrouck Heights, as well as Public Defender for 12 towns in Bergen County. Governor Murphy's statement regarding Musella's appointment emphasized his connection to the local community, stating, *"I am confident that Prosecutor Musella will be a strong leader and enhance the trust between law enforcement and the community to promote a safer Bergen County for all."* While Attorney General Gurbir S. Grewal once again highlighted the appointee's commitment to combatting the opioid crisis, stating, *"I know that Prosecutor Mark Musella will continue the great work being done at the BCPO, especially when it comes to community engagement and innovative ways to combat the opioid crisis, such as Operation Helping."*<sup>7</sup> said Attorney General Gurbir Grewal.

Overall, it seems that Governor Murphy tends to prioritize the experiences and connections of the prosecutors to the local community in their jurisdiction. On the other hand, the Attorney General appreciates the appointees' strengths in tackling the opioid issue.

Murphy was reelected in 2021 and began his second term. In 2022, he appointed two new prosecutors, LaChia L. Bradshaw and William Reynolds, and reappointed

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<sup>6</sup>Press release from Governor Murphy's office on October 9th, 2018.

<sup>7</sup>Press release from Governor Murphy's office on May 20th, 2019.

Jennifer Webb-McRae, who was initially appointed by Governor Corzine in 2010. According to the press release from the Office of the Governor, Acting Attorney General Matthew J. Platkin made a comment about these three appointees. He stated, "*Their nominations today reflect Governor Murphy's sustained efforts to ensure that leadership at all levels of law enforcement reflect the diversity and richness of different experiences that are the hallmarks of our State.*"<sup>8</sup>" suggesting that in addition to experience, Governor Murphy also considers diversity in his nominations.

LaChia L. Bradshaw is a native of New Jersey. She is the first person of color and the first woman to be approved for a full term as a prosecutor in Burlington County. Prior to being nominated by Governor Phil Murphy, Bradshaw served as a Senior Assistant Prosecutor in the Burlington County Prosecutors Office's Major Crimes Unit, Special Victim's Section. She mentioned that it was in this role that she developed a passion for zealously advocating for the rights of women and children who are survivors of physical or sexual violence.<sup>9</sup>

Jennifer Webb-McRae was first appointed by Governor Corzine to be the first African American and first female Prosecutor of Cumberland County in 2010. She was reappointed by Governor Christie in 2016. Prior to her appointment, she served as an Assistant Deputy Public Defender for the State of New Jersey for six years and was actively involved in the community. Since becoming a prosecutor, she has continued her community work by launching several initiatives that connect with local communities, including Back to School events. She has also hosted symposiums on topics such as Youth Outreach and Prescription Drug Abuse for School Professionals.<sup>10</sup>

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<sup>8</sup>Press release from Governor Murphy's office on May 16th, 2022.

<sup>9</sup>Press release from Burlington County Prosecutor Office on July 11th, 2022.

<sup>10</sup>Press release from Cumberland County Prosecutor Office.

Governor Murphy’s appointments of county prosecutors reflect a combination of factors. He prioritizes the experiences and connections of the prosecutors to the local community, as evident in his statements about Stephens, Billhimer, and Musella. He emphasizes their contributions to public service and their deep roots in the respective counties. Additionally, the Governor’s focus on appointing diverse candidates is highlighted by Acting Attorney General Platkin’s comment, suggesting a commitment to ensuring leadership in law enforcement reflects the diversity of the state. The emphasis on combating the opioid crisis, as mentioned by Attorney General Grewal, is another factor that likely influences the selection process.

Overall, Governor Murphy’s appointments focus on selecting prosecutors with experience, connections to the community, and a commitment to addressing specific challenges, such as the opioid crisis. The reappointment of Webb-McRae and the emphasis on diversity via the appointment of Bradshaw further highlight his commitment to inclusive leadership in law enforcement throughout his tenure.

#### 4.4.2 PROSECUTORIAL POLICY ALIGNMENT

To examine prosecutors’ responsiveness, I begin by comparing the policy alignment on drug-related issues between the Christie administration and the Murphy administration. I focus on two time points: the incumbent prosecutors’ issue positions as of 2015 under the Christie (Republican Party) administration and as of 2022 under the Murphy (Democratic Party) administration.

Christie served as the governor of New Jersey from 2010 to 2018. By 2015, it was Christie’s second term, and he had the chance to appoint all the office holders by that time. Among the 21 appointed prosecutors, 17 of them were appointed by Christie, two were appointed by the attorney general who served as his surrogate, and the remaining two of them were initially appointed by former governor Corzine. Still, Christie reappointed them to continue serving in their positions.

I observe the policy alignment on drug issues between the incumbent prosecutors and Governor Christie by examining whether these prosecutors address drug issues on their websites. If so, I then examine whether the incumbent prosecutors focus on a treatment- or incarceration-based approach. Considering that Governor Christie's position is closer to opposing drug decriminalization, I expect that if these incumbent prosecutors are responsive to Christie, they are more likely to adopt a tough approach toward drug charges.

The collected data reveals that approximately 38% of the incumbent prosecutors mention drug-related statements on their websites, and most of them adopt a tough stance on drug charges. Although they do not explicitly use the term "incarceration," their websites often highlight establishing special narcotics task forces to actively combat drug-related issues. This suggests that most of those mentioning drug policies align with Governor Christie's position on drugs.

However, there was one appointed prosecutor, Joseph Bocchini, who mentioned drug policies but adopted a treatment-based approach. Bocchini served as the prosecutor of Mercer County in New Jersey and was initially appointed by former Governor Corzine (Democratic Party) for two terms starting in 2004. He continued to serve as the Mercer district prosecutor when Governor Christie first came into office. However, in mid-2014, Bocchini announced his readiness to retire and declined to be reappointed for a third term. The fact that Bocchini was initially appointed by a governor from the opposite party may potentially explain the incongruence of his position compared to Governor Christie's.

Murphy assumed office as the governor of New Jersey in 2018. As of the year 2022, Murphy has already appointed a considerable number of new prosecutors. Among the 21 appointed district attorneys, approximately 72% of them (16) were appointed by Murphy. The remaining officeholders consist of three who were appointed by former governor Christie and two who were initially appointed by former governor Corzine.

Similar to before, I evaluate the policy alignment on drug issues between the incumbent prosecutors and Governor Murphy by examining whether these prosecutors addressed drug issues on their websites and their approach to drug charges. Considering that Governor Murphy's position is classified as supporting drug decriminalization, I anticipate that if the Murphy administration prosecutors are responsive to Murphy, they would be more likely to adopt a pro-drug decriminalization attitude.

The collected data reveals that, as of 2022, 8 out of 21 incumbent prosecutors mention drug-related statements on their websites. Among them, seven prosecutors adopt a treatment-based approach toward drug charges, while one maintains a neutral policy stance. Notably, among the seven prosecutors who align themselves with Governor Murphy's position on drugs, six are appointees of Murphy, and one (Esther Suarez, Hudson County) was initially appointed by Governor Christie.

It is noteworthy that in both the Christie and Murphy administrations, the majority of the incumbent prosecutors choose not to address drug policies on their websites. This widespread lack of position-taking makes it difficult to assess their responsiveness. Even though, by 2015, most of the incumbent prosecutors are Governor Christie's appointees, a significant number of them opt not to take a position. The same trend is observed when examining the incumbent prosecutors in 2022, where more than half of them do not address drug policies. This makes it challenging to evaluate whether policy alignment performs better when a governor has a larger number of his own appointees (Christie administration in 2015) compared to governors with a slightly smaller number of their own appointees (Murphy administration as of 2022).

#### 4.4.3 DID APPOINTED PROSECUTORS CHANGE POSITION?

To examine how a change in leadership might influence the dynamic of responsiveness, I then look at prosecutors who remain in office from the Christie administration, and

in some cases even the Corzine administration, to the Murphy administration. I compare their issue positions between the two time periods. In 2022, there are five incumbent prosecutors who are not initially appointed by Murphy. I use these five prosecutors as examples to examine whether they change their positions when under different leadership, as presented in Table 4.3. I first present the timeline of their tenure in office.

The data reveals that among the five incumbent prosecutors who have experienced different gubernatorial leadership, none of them change their position on drug issues over time. However, this is because four out of the five prosecutors do not mention their stance on drug charges on their websites, making it challenging to assess any changes in their positions. The only exception is Suarez from Hudson County, who expresses her opposition to drug legalization during the Christie administration. Even after transitioning to the Murphy administration, she continues to express her opposition to legalization when asked in news media.

Table 4.3: Appointed Prosecutors in New Jersey under Murphy Administration in Year 2022

Districts	Prosecutors	Corzine(2006-2010)	Christie (2010-2018)	Murphy (2018-present)	Change?
Cape May	Jeffrey H. Sutherland	–	Appointed at 2017	Stay in office	No
		–	Not Mentioned	Not Mentioned	
Mercer	Angelo J. Onofri	–	Appointed at 2016	Stay in office	No
		–	Not Mentioned	Not Mentioned	
Cumberland	Jennifer Webb-McRae	Appointed at 2010	Re-appointed at 2016	Stay in office	No
		–	Not Mentioned	Not Mentioned	
Hudson	Esther Suarez	Appointed at 2010	Re-appointed at 2015	Stay in office	No
		–	Oppose Drug Legalization	Oppose Drug Legalization	
Passaic	Camelia M. Valdes	Appointed at 2009	Re-appointed at 2015	Stay in office	No
		–	Not Mentioned	Not Mentioned	

## 4.5 CONCLUSION

In conclusion, this chapter presents my initial exploration of the relationship between governors and appointed prosecutors in states with appointment-based systems. I focus on two dimensions: understanding the politics of appointment and examining the nature of responsiveness between appointed prosecutors and governors.

By analyzing self-collected data on governors and appointed prosecutors, with a specific focus on their issue positions regarding drug charges, the case of New Jersey is examined as a primary example. Two main findings emerge from the analysis. First, the experience of appointees plays a crucial role in appointing prosecutors. Governors prioritize candidates with experience in relevant areas, such as handling narcotics cases, as this aligns with their policy goals, such as combating drug-related problems.

Second, the analysis reveals that the responsiveness between appointed prosecutors and governors is primarily influenced by the selection effect led by the governor rather than prosecutors adjusting their positions in response to a new governor when there is a change in leadership. This suggests that governors play a significant role in shaping the alignment between prosecutors and their policy preferences.

## CHAPTER 5

### CONCLUSION

This dissertation addresses a fundamental question regarding the factors influencing the variation in the application of law at the local level. To explore this question, I focus on a unique actor in the American legal system: local prosecutors. American prosecutors possess broad discretion in their daily practices. This discretion, guided by various incentives, results in significant variation in the application of law at the local level, which has profound political implications. For example, we may observe some prosecutors adopting more punitive measures, leading to higher incarceration rates in their jurisdiction compared to neighboring counties. Therefore, studying what influences prosecutorial behaviors is important for understanding the dynamics of criminal justice outcomes at the local level.

In this dissertation, I use a political responsiveness framework to analyze the connection between prosecutors and their selectors. Generally, there are two methods of selecting prosecutors: election and appointment. While the majority of US states employ election-based systems, four states adopt appointment-based systems. Therefore, in Chapters 2 and 3, I concentrate on examining the relationship between voters and prosecutors. In Chapter 4, I then focus on analyzing the relationship between political elites and prosecutors.

In Chapter 2, I investigate how voters evaluate prosecutors using an experimental approach. I design different information settings to mimic various information environments across US local elections, including partisan and nonpartisan elections, as well as high-salience and low-salience elections. I find that information regard-



ing candidates' policy positions plays an important role in shaping voters' decisions. When information about candidates' policy positions is available, voters tend to select policy-congruent candidates. However, when such information is unavailable, voters rely on cues, such as candidates' background information, to identify likely policy-congruent candidates. These findings highlight the potential benefits that society can reap from increasing the level of information in prosecutorial campaigns.

In Chapter 3, I examine whether prosecutors are responsive to public preferences, specifically in the context of drug charges. This chapter involves a significant effort in empirical data collection, including creating a new dataset on US county prosecutors. The primary contribution of this chapter is to shed light on the responsiveness of prosecutors to public preferences. The findings of this study suggest that prosecutors do indeed demonstrate a level of responsiveness to public preferences. However, the degree of responsiveness is contingent upon the electoral pressures prosecutors face. Specifically, the connection between public opinion and prosecutorial responsiveness appears stronger in cases where prosecutors are selected through contested elections. However, it is important to note that a notable portion of incumbent prosecutors, over half in fact, opt not to take policy stances explicitly. This raises concerns in a democratic society, where voters rely on information to evaluate elected officials and hold them accountable. The fact that a significant number of prosecutors refrain from addressing policy priorities impedes the public's ability to assess their performance and policy responsiveness effectively.

Chapter 4 focuses on the relationship between political elites and appointed prosecutors. It highlights how political elites' screening and selection mechanism is the primary force that shapes the policy alignment between governors and appointed prosecutors. It also underscores that the policy stances of existing prosecutors are less likely to change with the arrival of a new leadership, which raises a pertinent question regarding responsiveness.

Overall, this dissertation represents my first effort to investigate the politics of prosecutorial behavior and its implications for the politics of punishment within the American criminal justice system at the local level. While this research provides valuable insights, many under-explored questions remain within this field. Moving forward, I hope to expand our understanding by exploring different issue areas and examining various aspects of prosecutorial behavior.

There are a few questions that deserve future discussion. The first is the tension between uniformity and discretion. In my studies of prosecutors' behaviors, we see that prosecutors enjoy the room to exercise discretion in their applications of the law, creating policies that align with the preferences of those who select them. This creates a longstanding challenge in the field of law and politics—how to balance uniformity and responsiveness.

Uniformity means treating similar cases alike to ensure fairness and equality in penalties. We want people in similar situations to receive similar punishment in the legal system. On the other hand, we also want the system to consider individual differences and circumstances. This means that the system allows discretion, and judges or prosecutors should take into account various factors when considering sentences. However, this approach can lead to criticism due to the potential for disparities, as we may find that similar defendants with similar convictions often receive different punishments. The big question is: How can we find the proper balance between these two conflicting goals?

I suggest addressing the tension between these two goals by looking at what the public prioritizes. If uniformity is a central concern, then the way to find a balance between the tension is inevitably to limit the decision-maker's discretion in the legal system. This is often done through sentencing guideline systems established by federal and state legislatures. These guideline systems usually involve specifying a set of variables to determine a range of sentences for defendants. The constraints

are more significant when the range between the minimum and maximum sentences becomes narrower. In such a scenario, individual decision-makers have limited ability to take into account the circumstances and individual differences among offenders, thus promoting uniformity.

However, the immediate concern of such consistency is that it comes at the cost of fairness. Critics argue that these guidelines undermine fairness by limiting decision-makers' ability to consider the circumstances and individual differences among offenders (Ogletree Jr, 1987). That said, if fairness is a central concern, some level of discretion must be allowed in the legal system. Such discretion enables judges and prosecutors to consider the relevant characteristics of each case and tailor punishments accordingly.

Through my studies of prosecutorial behavior, I find that prosecutors, as a whole, demonstrate some level of responsiveness to society. This leads to another crucial question that deserves future discussion: the role that prosecutors should play in governing. Prosecutors are expected to behave as impartial ministers of justice; however, at times, they also act as policy advocates. For example, after 2010, we witnessed an increased number of prosecutors labeling themselves as progressive prosecutors, promoting a more lenient approach to replace incarceration. Supporters of this policy direction may celebrate the role that prosecutors have played in reforming the criminal justice system. On the contrary, opponents may criticize this activism and demand more accountability from prosecutors, seeking to limit their power in making localized policies.

The varying roles prosecutors play in governance intersect with their power and discretion in the legal system, making the issue more complex. It could be beneficial for scholars to consider the ideal role prosecutors should play. Understanding their expected roles will provide a clearer basis for how to hold them accountable. For example, suppose society prefers the prosecutors to play a role as a policy advocate.

In that case, concerns about prosecutors being policymakers can be mitigated, and the public can rely on selection mechanisms, such as elections, to enhance accountability.

Future research should investigate the relationship between selection methods and their impact on prosecutorial responsiveness. In my study, I find that competitive elections could lead to higher policy alignment between the public and prosecutors. Further research could explore the factors influencing the competitiveness of prosecutorial elections. Similarly, in my examination of appointed prosecutors, I find that the governor's selection process significantly affects prosecutorial policy alignment. Future studies could examine the factors influencing the governor's appointment decisions and prosecutors' resignations.

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# APPENDIX A

## ELECTING PROSECUTORS

### A1. PROFILE SAMPLES

	Candidate 1	Candidate 2
<b>Age</b>	35	35
<b>Experience</b>	Incumbent, 1st term	Criminal Defense Lawyer
<b>Gender</b>	Female	Female
<b>Ethnicity</b>	Black	White

Which of these two candidates would you prefer to see as your district attorney?

Candidate 1

Candidate 2

Figure A.1: Profile Sample 1

	Candidate 1	Candidate 2
<b>Ethnicity</b>	Black	White
<b>Gender</b>	Male	Female
<b>Age</b>	57	35
<b>Experience</b>	Criminal Defense Lawyer	Criminal Defense Lawyer
<b>Party</b>	Independent	Democrat

Which of these two candidates would you prefer to see as your district attorney?

Candidate 1

Candidate 2

Figure A.2: Profile Sample 2

	Candidate 1	Candidate 2
<b>Media Describe As:</b>	A tough on crime candidate, one who advocates for harsher sentences	A reformed-minded candidate, one who advocates leniency for low-level offenders
<b>Position on immigration policy</b>	Opposes sanctuary city	Supports sanctuary city
<b>Experience</b>	Incumbent, 1st term	Incumbent, 2nd term
<b>Age</b>	46	46
<b>Gender</b>	Female	Female
<b>Ethnicity</b>	White	Asian

Which of these two candidates would you prefer to see as your district attorney?

Candidate 1

Candidate 2

Figure A.3: Profile Sample 3

	Candidate 1	Candidate 2
<b>Ethnicity</b>	Hispanic	Asian
<b>Age</b>	46	35
<b>Experience</b>	Judge	Judge
<b>Position on immigration policy</b>	Supports sanctuary city	Supports sanctuary city
<b>Media Describe As:</b>	A tough on crime candidate, one who advocates for harsher sentences	A reformed-minded candidate, one who advocates leniency for low-level offenders
<b>Gender</b>	Female	Female
<b>Party</b>	Republican	Democrat

Which of these two candidates would you prefer to see as your district attorney?

Candidate 1

Candidate 2

Figure A.4: Profile Sample 4

A2. NUMBER OF RATED PROFILES IN EACH GROUP

Table A.1: Number of rated profiles in each group

Group 1	Group 2	Group 3	Group 4
9,220 rated profiles	9,040 rated profiles	9,620 rated profiles	9,060 rated profiles

### A3. SAMPLE

Table A.2: Sample Characteristics

	Percentage
<b>Gender</b>	
Male	50.75%
<b>Race/ethnicity</b>	
Asian	8.47%
Black	9.80%
White	74.08%
Hispanic	3.10%
Middle Eastern	0.31%
Multiracial	3.05%
Other	1.19%
<b>Political party identification</b>	
Democrat	54.57%
Republican	31.75%
Independent	13.06%
<b>Education</b>	
High School or less	9.86%
Some college	16.57%
College or more	73.57%
Age	37 (12.68)

Note: Descriptive statistics based on respondents with complete data on all variables.  
Standard deviations in parentheses for continuous variables.

A4. SUPPORT FOR CRIMINAL JUSTICE TOPICS BY RESPONDENTS' PARTISANSHIP

Table A.3: Public Opinion on Sanctuary City and the Tough-on-Crime Approach

	Democratic Respondents	Republican Respondents
<b>Sanctuary City</b>		
Support	76%	25%
Oppose	16%	71%
Don't know	8%	4%
<b>Tough-on-crime approach</b>		
Support	25%	53%
Oppose	72%	43%
Don't know	3%	5%

## A5. THE EFFECT OF POLICY INFORMATION IN HIGH INFORMATION ENVIRONMENT

### Table A.4: Policy Voting on the Tough-on-Crime Issue

Respondent Attributes	Candidate Vote (1 = Yes)							
	Tough-on-Crime Platform				Reform-minded Platform			
	Pooled	Democrat Cand	Republican Cand	Independent Cand	Pooled	Democrat Cand	Republican Cand	Independent Cand
<b>Tough-on-Crime (=1)</b>	0.24*** (0.08)	0.07 (0.08)	0.17 (0.13)	0.61*** (0.10)				
Tough-on-Crime × Democrat (=1)	-0.12 (0.10)	-0.06 (0.11)	0.05 (0.16)	-0.47*** (0.13)				
Tough-on-Crime × Republican (=1)	-0.10 (0.09)	0.03 (0.10)	-0.06 (0.14)	-0.42*** (0.13)				
<b>Reform-minded (=1)</b>					0.29*** (0.09)	0.21 (0.17)	0.25 (0.15)	0.40*** (0.15)
Reform-minded × Democrat (=1)					-0.16 (0.11)	0.07 (0.18)	-0.22 (0.18)	-0.30* (0.16)
Reform-minded × Republican (=1)					-0.15 (0.10)	-0.05 (0.19)	-0.06 (0.17)	-0.33** (0.16)
Democrat (=1)	0.03 (0.05)	-0.03 (0.09)	-0.03 (0.08)	0.21** (0.08)	0.12 (0.09)	-0.04 (0.15)	0.04 (0.15)	0.29** (0.13)
Republican (=1)	0.08* (0.04)	-0.15* (0.08)	0.23*** (0.08)	0.16* (0.09)	0.06 (0.09)	-0.23 (0.14)	0.23 (0.15)	0.18 (0.11)
Male (=1)	-0.01 (0.03)	0.06 (0.04)	-0.05 (0.04)	-0.06 (0.05)	0.02 (0.03)	0.04 (0.05)	0.03 (0.04)	-0.03 (0.05)
College Degree (=1)	-0.04 (0.04)	-0.05 (0.05)	0.02 (0.05)	-0.12* (0.06)	0.04 (0.04)	0.05 (0.06)	0.06 (0.05)	0.003 (0.05)
Ideology	0.001 (0.01)	-0.005 (0.01)	0.02 (0.02)	0.003 (0.02)	-0.002 (0.01)	-0.01 (0.02)	-0.01 (0.02)	0.0005 (0.01)
Age	0.0001 (0.001)	0.001 (0.002)	-0.003 (0.002)	0.003** (0.001)	-0.0001 (0.001)	0.0003 (0.002)	0.0002 (0.002)	-0.002 (0.001)
Constant	0.38*** (0.05)	0.51*** (0.10)	0.34*** (0.10)	0.21* (0.11)	0.36*** (0.11)	0.50*** (0.18)	0.29 (0.18)	0.39*** (0.15)
Observations	4,271	1,441	1,435	1,395	4,249	1,432	1,368	1,449

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

### Table A.5: Policy Voting on Sanctuary City Issue

Respondent Attributes	Candidate Vote (1 = Yes)							
	Pro-sanctuary city Platform				Oppose-sanctuary City Platform			
	Pooled	Democrat Cand	Republican Cand	Independent Cand	Pooled	Democrat Cand	Republican Cand	Independent Cand
<b>Pro-sanctuary city (= 1)</b>	0.23*** (0.04)	0.60*** (0.08)	0.04 (0.12)	0.08 (0.09)				
Pro-Sanctuary City × Democrat	0.02 (0.05)	-0.33*** (0.11)	0.06 (0.13)	0.32*** (0.09)				
Pro-Sanctuary City × Republican	0.05 (0.05)	-0.27*** (0.10)	0.21* (0.12)	0.20** (0.10)				
<b>Oppose-sanctuary city (= 1)</b>					0.25*** (0.05)	0.21** (0.10)	0.15 (0.09)	0.39*** (0.14)
Oppose-Sanctuary City × Democrat					-0.004 (0.06)	0.04 (0.12)	0.12 (0.12)	-0.21 (0.14)
Oppose-Sanctuary City × Republican					-0.01 (0.06)	-0.05 (0.11)	0.11 (0.11)	-0.13 (0.14)
Democrat (=1)	-0.01 (0.04)	0.14 (0.09)	0.01 (0.11)	-0.18*** (0.07)	-0.01 (0.04)	0.01 (0.07)	-0.22*** (0.08)	0.19* (0.11)
Republican (=1)	-0.05 (0.04)	-0.04 (0.07)	0.05 (0.10)	-0.18*** (0.07)	0.03 (0.04)	-0.13* (0.07)	0.07 (0.09)	0.16 (0.12)
Male (=1)	-0.04** (0.02)	0.01 (0.04)	-0.06 (0.04)	-0.06* (0.03)	0.03 (0.02)	0.07* (0.04)	-0.004 (0.04)	0.02 (0.03)
College Degree (=1)	-0.03 (0.02)	-0.05 (0.04)	0.04 (0.05)	-0.08* (0.04)	0.01 (0.02)	0.05 (0.04)	0.02 (0.05)	-0.05 (0.04)
Ideology	-0.01 (0.01)	-0.03** (0.01)	-0.003 (0.02)	0.004 (0.01)	0.01 (0.01)	0.01 (0.02)	0.02 (0.01)	0.002 (0.01)
Age	0.001** (0.0005)	0.001 (0.001)	0.001 (0.001)	0.0003 (0.001)	-0.0003 (0.001)	0.001 (0.001)	-0.002 (0.001)	0.0004 (0.001)
Constant	0.39*** (0.04)	0.37*** (0.10)	0.30** (0.12)	0.55*** (0.09)	0.36*** (0.04)	0.31*** (0.11)	0.48*** (0.10)	0.28** (0.12)
Observations	4,076	1,393	1,336	1,347	4,224	1,394	1,389	1,441

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

A6. THE EFFECT OF PARTY CUE IN LOW INFORMATION PARTISAN ELECTION

Table A.6: Withholding Policy Information - Partisan Election

Respondent Attributes	Candidate Vote (1 = Yes)			
	Democratic Cand.	Republican Cand.	Democratic Cand.	Republican Cand.
Tough-on-Crime (=1)	0.005 (0.05)	-0.17** (0.07)		
Tough-on-Crime × Democrat	-0.09 (0.07)	0.25*** (0.08)		
Tough-on-Crime × Republican	-0.09 (0.08)	0.25*** (0.09)		
Pro-Sanctuary City (=1)			0.14** (0.06)	-0.10 (0.08)
Pro-Sanctuary City × Democrat			-0.02 (0.08)	-0.02 (0.10)
Pro-Sanctuary City × Republican			0.10 (0.10)	-0.05 (0.09)
Democrat (=1)	0.15*** (0.04)	-0.16*** (0.06)	0.13* (0.07)	-0.05 (0.07)
Republican (=1)	-0.10 (0.07)	0.13** (0.06)	-0.12* (0.06)	0.21*** (0.06)
Male (=1)	0.03 (0.03)	-0.03 (0.03)	0.02 (0.02)	-0.03 (0.03)
College Degree (=1)	0.02 (0.03)	-0.05 (0.05)	0.02 (0.03)	-0.06 (0.05)
Ideology	-0.03** (0.01)	0.04*** (0.01)	-0.03** (0.01)	0.04*** (0.01)
Age	-0.0003 (0.001)	0.001 (0.001)	0.0004 (0.001)	0.001 (0.001)
Constant	0.59*** (0.08)	0.31*** (0.08)	0.46*** (0.10)	0.33*** (0.09)
Observations	2,899	2,843	2,862	2,804

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01



A7. THE EFFECT OF GENDER AND RACE CUES IN LOW INFORMATION NONPARTISAN ELECTION

Table A.7: Effect of Respondents' Tough-on-Crime Attitude on Candidate Vote

Respondent Attributes	Candidate Vote ( 1 = Yes)					
	Male Cand	Female Cand	White Cand	Black Cand	Hispanic Cand	Asian Cand
<b>Tough-on-Crime (=1)</b>	-0.04 (0.05)	0.06 (0.06)	0.12*** (0.04)	-0.09 (0.06)	0.02 (0.11)	-0.05 (0.13)
Tough-on-Crime × Democrat	0.03 (0.06)	-0.05 (0.07)	0.004 (0.07)	0.01 (0.10)	-0.02 (0.11)	0.05 (0.14)
Tough-on-Crime × Republican	0.03 (0.06)	-0.04 (0.07)	-0.05 (0.07)	0.01 (0.08)	-0.01 (0.12)	0.03 (0.14)
Democrat (=1)	0.004 (0.03)	-0.0004 (0.03)	0.03 (0.05)	-0.01 (0.05)	0.002 (0.04)	-0.03 (0.06)
Republican (=1)	0.01 (0.04)	-0.01 (0.04)	0.04 (0.06)	0.001 (0.06)	-0.07 (0.05)	0.04 (0.06)
Male (=1)	0.04** (0.02)	-0.04** (0.02)	0.04 (0.03)	-0.03 (0.03)	0.03 (0.03)	-0.02 (0.03)
College Degree (=1)	-0.01 (0.03)	0.01 (0.03)	-0.08** (0.04)	-0.03 (0.04)	0.11*** (0.04)	0.02 (0.03)
Ideology	0.02** (0.01)	-0.02** (0.01)	0.03** (0.01)	-0.02 (0.01)	0.002 (0.01)	-0.02* (0.01)
Age	0.0002 (0.001)	-0.0003 (0.001)	0.002* (0.001)	0.002 (0.001)	-0.002*** (0.001)	-0.001 (0.001)
Constant	0.39*** (0.06)	0.62*** (0.06)	0.27*** (0.08)	0.60*** (0.10)	0.49*** (0.07)	0.64*** (0.07)
Observations	4,351	4,249	2,193	2,117	2,164	2,126

Table A.8: Effect of Respondents' Sanctuary City Attitude on Candidate Vote

Respondent Attributes	Candidate Vote ( 1 = Yes)					
	Male Cand	Female Cand	White Cand	Black Cand	Hispanic Cand	Asian Cand
<b>Pro-Sanctuary City (=1)</b>	-0.09* (0.05)	0.11* (0.06)	-0.04 (0.06)	0.01 (0.07)	0.07 (0.08)	-0.05 (0.11)
Pro-Sanctuary City × Democrat	0.09 (0.05)	-0.11* (0.06)	-0.03 (0.08)	0.10 (0.11)	-0.03 (0.09)	0.01 (0.11)
Pro-Sanctuary City × Republican	0.09 (0.06)	-0.12* (0.06)	0.12 (0.09)	0.01 (0.10)	-0.09 (0.09)	-0.03 (0.12)
Democrat (=1)	-0.03 (0.05)	0.04 (0.05)	0.08 (0.06)	-0.08 (0.10)	0.02 (0.07)	-0.04 (0.07)
Republican (=1)	-0.04 (0.05)	0.05 (0.06)	0.02 (0.06)	-0.01 (0.07)	-0.002 (0.05)	-0.01 (0.07)
Male (=1)	0.06*** (0.02)	-0.06*** (0.02)	0.04 (0.03)	-0.03 (0.04)	0.02 (0.03)	-0.01 (0.03)
College Degree (=1)	-0.003 (0.02)	0.001 (0.03)	-0.09** (0.04)	-0.01 (0.04)	0.09** (0.04)	0.03 (0.03)
Ideology	0.02** (0.01)	-0.02** (0.01)	0.03** (0.01)	-0.01 (0.01)	0.0005 (0.01)	-0.02** (0.01)
Age	-0.0002 (0.001)	0.0000 (0.001)	0.001 (0.001)	0.002** (0.001)	-0.002** (0.001)	-0.002* (0.001)
Constant	0.43*** (0.06)	0.58*** (0.07)	0.33*** (0.09)	0.51*** (0.11)	0.45*** (0.08)	0.72*** (0.10)
Observations	4,116	4,084	2,115	2,004	2,048	2,033

Outcomes are candidate vote for: (1) a male candidate, (2) a female candidate, (3) a White candidate (4) a Black candidate, (5) a Hispanic candidate, (6) an Asian candidate. Each respondent evaluated ten profiles pairs. Candidates' profiles contain no party affiliation and no policy information. Standard errors clustered at respondent level.

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

## A8. SURVEY QUESTIONNAIRE

### PART I - IP CHECKING WARNING MESSAGE

Warning! This survey uses a protocol to check that you are responding from inside the U.S. and not using a Virtual Private Server(VPS), Virtual Private Network(VPN), or proxy to hide your country. In order to take this survey, please turn off your VPS/VPN/proxy if you are using one and also any ad blocking applications. Failure to do this might prevent you from completing the HIT.

### PART II - MEASURING POLICY POSITIONS

Below are a list of policies currently in place in the U.S. Please read each policy and tell me whether you are for or against.

(1) When it comes to illegal immigration, "Sanctuary City" is a term used to describe U.S. cities which do not enforce immigration laws and allow undocumented immigrants to live there and, in many cases, receive services. which of the following statement comes close to your opinion?

- Undocumented immigrants should be deported so there is no reason to have sanctuary cities.
- Sanctuary cities are needed to provide services to undocumented immigrants while they are in this country.
- Don't Know

(2) When it comes to criminal justice polices, "Tough-on-Crime" is a term used to describe government's approach to punishment. For decades, state and federal governments have been tried to counter violent crime by incarcerating more people for longer periods. Which of the following statement comes close to your opinion?

- Harsh sentencing has helped the society become safer, there there are reasons to pursue tough-on-crime approach.
- Tough-on-crime did not make the society safer, we need alternative to tough on crime, such as providing treatment programs.
- Don't know.

(3) "On the issue of abortion - the state government should allow a woman to obtain an abortion as a matter of choice."

- Support
- Oppose
- Don't know

(4) "On the issue of drug policy - the state government should decriminalize drugs."

- Support
- Oppose
- Don't know

(5) There are many important issues facing our country today. Research shows that issues people think are important can affect their views on other issues. We also want to know if you are paying attention. Please ignore the question and mark "none of the above". That's right, just select the one option only.

Please select the following issues facing the nation that you think is important.

- Health Care
- Unemployment
- The federal budget deficit
- Crime
- Education
- None of the above
- All of the above

## DEMOGRAPHIC QUESTIONS

(6) In what year were you born?

(7) Are you male or female? [Male/Female]

(8) In which state do you currently reside?

(9) In which city do you currently reside?

(10) What is your ZIP code?

(11) What is the highest level of school you have completed or the highest degree you have received? [No high school / High school graduate / Some college / Associate degree in college (2-year) / Bachelor's degree in college (4-year) / Graduate degree degree]

(12) What racial or ethnic group best describes you? [White / Black or African American / Hispanic / Asian / Middle Eastern / Other]

(13) Where would you place yourself on the following party identification scale? [Strong Democrat / Weak Democrat / Independent but lean Democrat / Completely Independent / Independent but lean Republican / Weak Republican / Strong Republican / Don't know]

(14) Where would you place yourself on the following political ideology scale? [Very liberal / Liberal / Slightly liberal / Moderate; middle of the road / Slightly conservative / Conservative / Very conservative / Don't know]

(15) We are interested in where do people get getting their news from. Previous research suggest that the source of information are important can affect people's views on issues. We want to see if people are reading the questions carefully. To show that you've read this much, please select "other", that's right, just select this option only.

Regardless how often you read news. Where do you usually get news from? [TV / Online / Radio / Printed newspaper / Other / None of the above / All of the above]

CANDIDATE PROFILE TREATMENTS

Please carefully review the two candidates from the district attorney detailed below. Then please answer the questions about these candidates below.

*Note: respondents were randomly assigned to one of the four groups.*

	Candidate 1	Candidate 2
<b>Age</b>	35	35
<b>Experience</b>	Incumbent, 1st term	Criminal Defense Lawyer
<b>Gender</b>	Female	Female
<b>Ethnicity</b>	Black	White

Which of these two candidates would you prefer to see as your district attorney?

Candidate 1

Candidate 2

Figure A.5: Group 1 - Low Information Nonpartisan Election

	Candidate 1	Candidate 2
<b>Ethnicity</b>	Black	White
<b>Gender</b>	Male	Female
<b>Age</b>	57	35
<b>Experience</b>	Criminal Defense Lawyer	Criminal Defense Lawyer
<b>Party</b>	Independent	Democrat

Which of these two candidates would you prefer to see as your district attorney?

Candidate 1

Candidate 2

Figure A.6: Group 2 - Low Information Partisan Election

	Candidate 1	Candidate 2
<b>Media Describe As:</b>	A tough on crime candidate, one who advocates for harsher sentences	A reformed-minded candidate, one who advocates leniency for low-level offenders
<b>Position on immigration policy</b>	Opposes sanctuary city	Supports sanctuary city
<b>Experience</b>	Incumbent, 1st term	Incumbent, 2nd term
<b>Age</b>	46	46
<b>Gender</b>	Female	Female
<b>Ethnicity</b>	White	Asian

Which of these two candidates would you prefer to see as your district attorney?

Candidate 1

Candidate 2

Figure A.7: Group 3 - High Information Nonpartisan Election

	Candidate 1	Candidate 2
<b>Ethnicity</b>	Hispanic	Asian
<b>Age</b>	46	35
<b>Experience</b>	Judge	Judge
<b>Position on immigration policy</b>	Supports sanctuary city	Supports sanctuary city
<b>Media Describe As:</b>	A tough on crime candidate, one who advocates for harsher sentences	A reformed-minded candidate, one who advocates leniency for low-level offenders
<b>Gender</b>	Female	Female
<b>Party</b>	Republican	Democrat

Which of these two candidates would you prefer to see as your district attorney?

Candidate 1

Candidate 2

Figure A.8: Group 4 - High Information Partisan Election

#### PART IV - POST-TREATMENT QUESTIONS

- Have you voted for any district attorney election before? [Yes / No / Don't remember]
- How old are you? [text]
- How do you feel in the area where you live? [Very safe / safe / Neither safe or unsafe / Unsafe / Very unsafe]
- In a few words, please explain your main task in this survey. [text]

A9. THE EFFECT OF POLICY INFORMATION IN HIGH INFORMATION ENVIRONMENT BY STRENGTH OF PARTISANSHIP

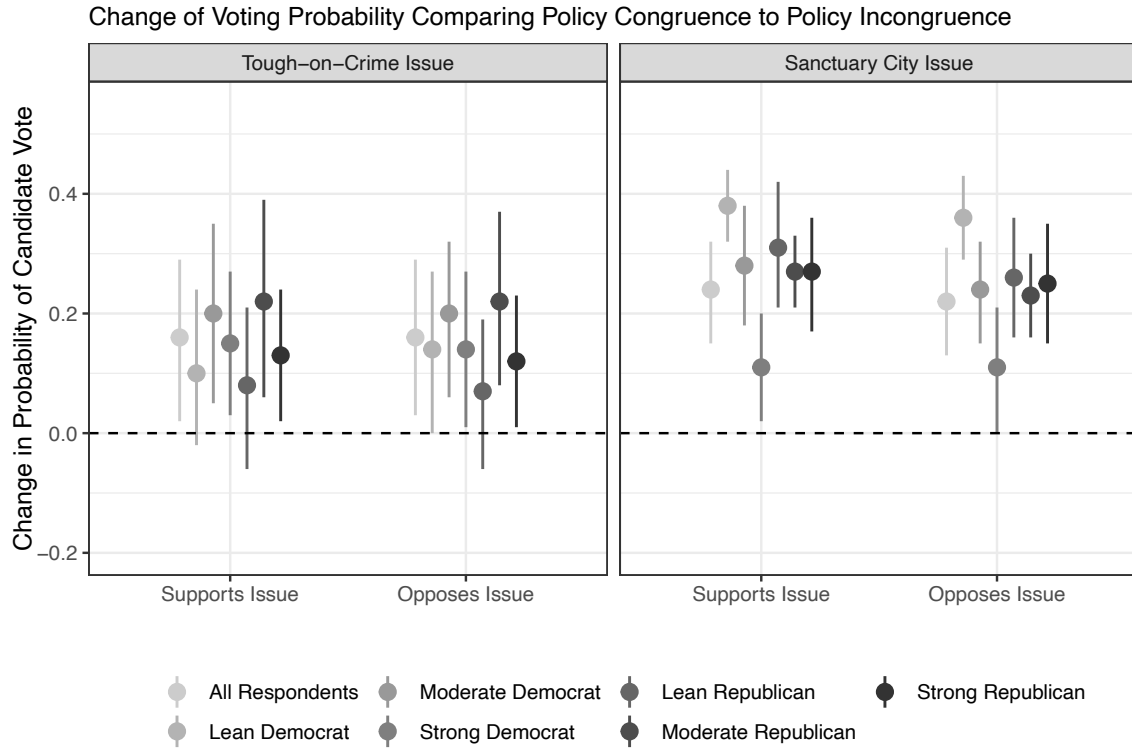


Figure A.9: The Effect of Policy Information by Strength of Partisanship

The y-axis shows the predicted probabilities changes associated with a respondent going from policy incongruence to policy congruence on two issues subset by issue positions. The x-axis represents the varying issue positions. The lightest grey dots and lines denote estimates for all respondents, the middle grey dots for Democrats (lean, moderate, strong), and the darkest grey dots for Republicans (lean, moderate, strong). 95% confidence intervals are obtained from robust standard errors, clustered by respondent.

Table A.9: The Effect of Policy Information in High Information Environment by Strength of Partisanship (Tough-on-Crime Issue)

Respondent Attributes	Issue Positions	
	Tough-on-Crime Platform	Reform-minded Platform
<b>Tough-on-Crime (=1)</b>	0.24*** (0.08)	
Tough-on-Crime × Lean Democrat	-0.13 (0.10)	
Tough-on-Crime × Moderate Democrat	-0.03 (0.11)	
Tough-on-Crime × Strong Democrat	-0.09 (0.10)	
Tough-on-Crime × Lean Republican	-0.17 (0.11)	
Tough-on-Crime × Moderate Republican	-0.01 (0.11)	
Tough-on-Crime × Strong Republican	-0.11 (0.10)	
<b>Reform-minded (=1)</b>		0.28*** (0.09)
Reform-minded × Lean Democrat		-0.14 (0.11)
Reform-minded × Moderate Democrat		-0.09 (0.11)
Reform-minded × Strong Democrat		-0.14 (0.11)
Reform-minded × Lean Republican		-0.21* (0.11)
Reform-minded × Moderate Republican		-0.06 (0.12)
Reform-minded × Strong Republican		-0.16 (0.10)
Lean Democrat	0.01 (0.03)	0.15 (0.11)
Moderate Democrat	-0.03 (0.05)	0.10 (0.10)
Strong Democrat	0.08 (0.07)	0.05 (0.09)
Lean Republican	0.13*** (0.05)	0.08 (0.10)
Moderate Republican	0.02 (0.08)	0.01 (0.09)
Strong Republican	0.07 (0.06)	0.07 (0.09)
Male	-0.02 (0.03)	0.02 (0.02)
College Degree	-0.05 (0.04)	0.04 (0.03)
Ideology	0.004 (0.01)	-0.005 (0.01)
Age	0.001 (0.001)	-0.001 (0.001)

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01



Table A.10: The Effect of Policy Information in High Information Environment by Strength of Partisanship (Sanctuary City Issue)

Respondent Attributes	Issue Positions	
	Pro-sanctuary city	Oppose-sanctuary city
<b>Pro-sanctuary city (=1)</b>	0.23*** (0.04)	
Pro-sanctuary city × Lean Democrat	0.15*** (0.05)	
Pro-sanctuary city × Moderate Democrat	0.04 (0.07)	
Pro-sanctuary city × Strong Democrat	-0.12* (0.06)	
Pro-sanctuary city × Lean Republican	0.08 (0.07)	
Pro-sanctuary city × Moderate Republican	0.04 (0.05)	
Pro-sanctuary city × Strong Republican	0.03 (0.06)	
<b>Oppose-sanctuary city (=1)</b>		0.25*** (0.05)
Oppose-sanctuary city × Lean Democrat		0.11* (0.07)
Oppose-sanctuary city × Moderate Democrat		-0.01 (0.07)
Oppose-sanctuary city × Strong Democrat		-0.14* (0.08)
Oppose-sanctuary city × Lean Republican		0.01 (0.07)
Oppose-sanctuary city × Moderate Republican		-0.02 (0.07)
Oppose-sanctuary city × Strong Republican		-0.004 (0.07)
Lean Democrat	-0.06 (0.04)	-0.07* (0.04)
Moderate Democrat	-0.05 (0.05)	0.03 (0.05)
Strong Democrat	0.10 (0.06)	0.03 (0.04)
Lean Republican	-0.05 (0.04)	0.01 (0.05)
Moderate Republican	-0.05 (0.04)	0.05 (0.04)
Strong Republican	-0.05 (0.04)	0.02 (0.06)
Male	-0.03** (0.01)	0.02 (0.02)
College Degree	-0.03* (0.02)	0.01 (0.02)
Ideology	-0.01** (0.01)	0.01*** (0.01)
Age	0.001** (0.0005)	-0.0004 (0.001)

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

A10. THE EFFECT OF POLICY INFORMATION: ADDING INDEPENDENT RESPONDENTS

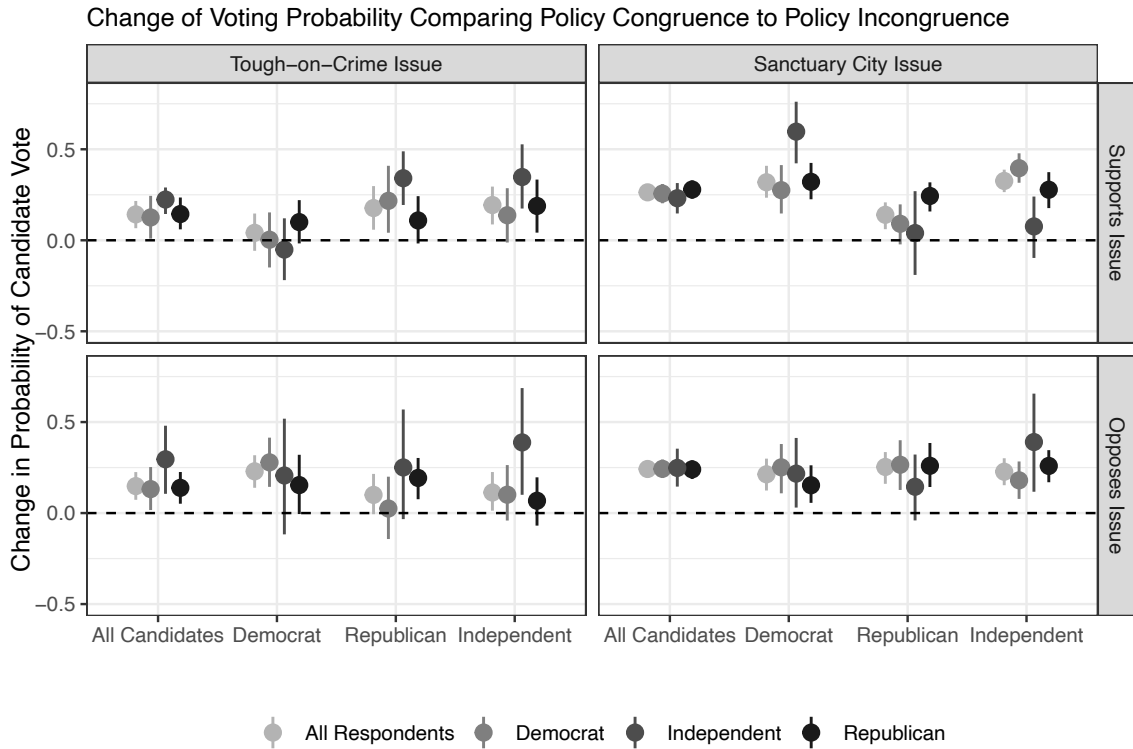


Figure A.10: The Effect of Policy Information: adding Independent Respondents

The y-axis shows the predicted probabilities changes associated with a respondent going from policy incongruence to policy congruence on two issues subset by policies and positions. The x-axis represents the varying candidate party treatments. Gray dots and lines denote estimates for all respondents, light grey for Democrats, dark grey for Independent, and black for Republicans. 95% confidence intervals are obtained from robust standard errors, clustered by respondent.

A11. THE EFFECT OF CANDIDATE GENDER AND RACE CUES IN LOW INFORMATION  
NONPARTISAN ELECTION

Table A.11: The Effect of Candidate Gender and Race Cues: tough-on-crime issue

Respondent Attributes	Candidate Vote ( 1 = Yes)			
	White Male Cand	White Female Cand	Non-White Male Cand	Non-White Female Cand
<b>Tough-on-Crime (=1)</b>	-0.003 (0.10)	0.29** (0.13)	-0.06 (0.05)	-0.01 (0.05)
Tough-on-Crime × Democrat	0.15 (0.12)	-0.18 (0.15)	-0.01 (0.05)	-0.01 (0.06)
Tough-on-Crime × Republican	0.15 (0.13)	-0.26* (0.15)	0.003 (0.06)	0.02 (0.06)
Democrat	0.02 (0.07)	0.03 (0.07)	-0.01 (0.04)	0.004 (0.04)
Republican	0.01 (0.09)	0.05 (0.07)	-0.002 (0.04)	-0.02 (0.05)
Male	0.04 (0.05)	0.03 (0.04)	0.04* (0.02)	-0.06*** (0.02)
College Degree	-0.11** (0.06)	-0.06 (0.05)	0.02 (0.03)	0.03 (0.03)
Ideology	0.06*** (0.02)	-0.002 (0.02)	0.01 (0.01)	-0.02** (0.01)
Age	0.001 (0.001)	0.003* (0.001)	-0.0003 (0.001)	-0.001 (0.001)
Constant	0.22* (0.12)	0.33*** (0.12)	0.47*** (0.07)	0.68*** (0.07)

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Table A.12: The Effect of Candidate Gender and Race Cues

Respondent Attributes	Candidate Vote ( 1 = Yes)			
	White Male Cand	White Female Cand	Non-White Male Cand	Non-White Female Cand
<b>Pro-Sanctuary City (=1)</b>	-0.13 (0.11)	0.10 (0.12)	-0.08 (0.11)	0.11 (0.12)
Pro-Sanctuary City × Democrat	0.05 (0.14)	-0.16 (0.15)	0.11 (0.14)	-0.08 (0.15)
Pro-Sanctuary City × Republican	0.17 (0.15)	0.03 (0.14)	0.06 (0.15)	-0.17 (0.14)
Democrat	0.08 (0.11)	0.08 (0.10)	-0.09 (0.11)	0.03 (0.10)
Republican	-0.02 (0.13)	0.05 (0.08)	-0.06 (0.13)	0.06 (0.08)
Male	0.08 (0.05)	-0.02 (0.04)	0.05 (0.05)	-0.07 (0.04)
College Degree	-0.09 (0.07)	-0.08 (0.05)	0.04 (0.07)	0.03 (0.05)
Ideology	0.07*** (0.02)	-0.001 (0.02)	0.001 (0.02)	-0.02 (0.02)
Age	-0.0001 (0.002)	0.002 (0.002)	-0.001 (0.002)	-0.001 (0.002)
Constant	0.24 (0.15)	0.44*** (0.14)	0.52*** (0.15)	0.62*** (0.14)

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

A12. THE EFFECT OF CANDIDATE GENDER AND RACE CUES IN LOW INFORMATION  
NONPARTISAN ELECTION

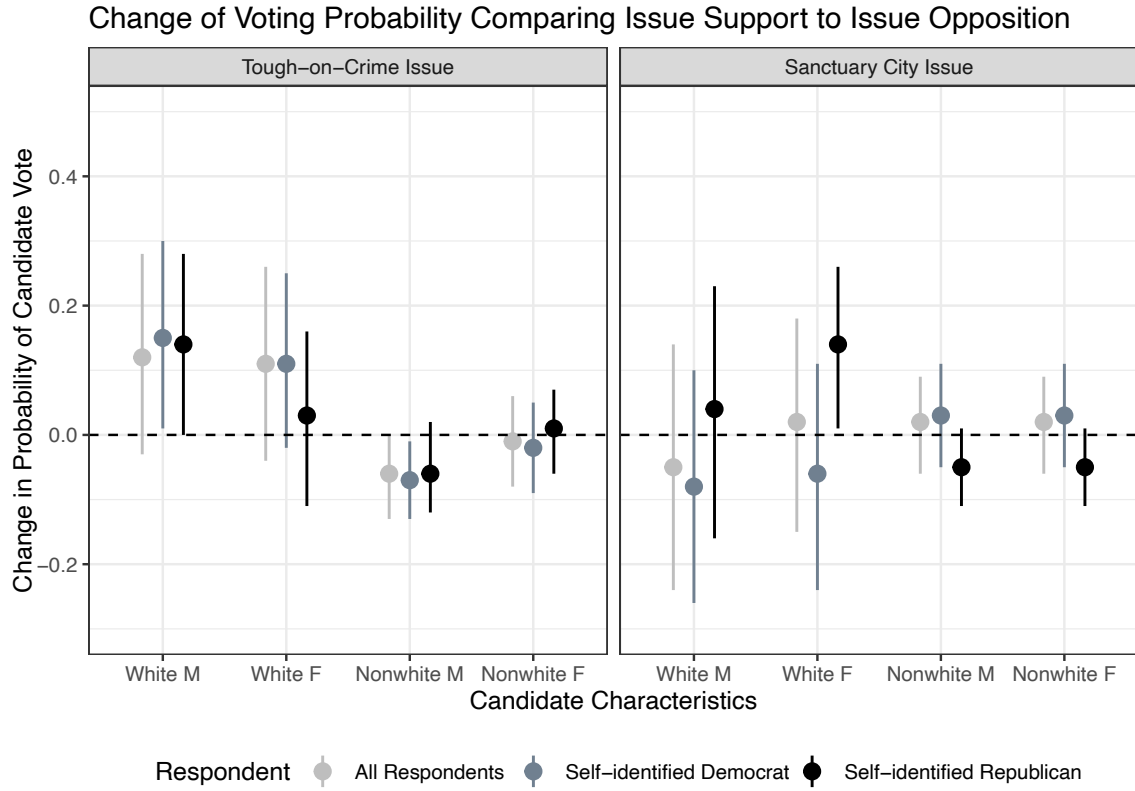


Figure A.11: The Effect of Candidate Gender and Race Cues in Low Information Nonpartisan Election

The y-axis shows the predicted probabilities changes associated with a respondent going from policy incongruence to policy congruence on two issues subset by policies. The x-axis represents the varying candidate gender and race combinations. Gray dots and lines denote estimates for all respondents, light grey for Democrats, dark grey for Independent, and black for Republicans. 95% confidence intervals are obtained from robust standard errors, clustered by respondent.

A13. SUBGROUP DIFFERENCES

Table A.13: Gender and Race Proportions by Treatment Groups (unweighted)

	Male	Female	White	Non-White
Treatment Group 1	226 (49.3%)	232 (50.6%)	332 (72.5%)	126 (27.5%)
Treatment Group 2	237 (52.9%)	211 (47.1%)	333 (74.3%)	115 (25.7%)
Treatment Group 3	247 (51.6%)	232 (48.4%)	335 (73%)	124 (27%)
Treatment Group 4	214 (47.6%)	236 (52.4%)	345 (76.7%)	105 (23.3%)

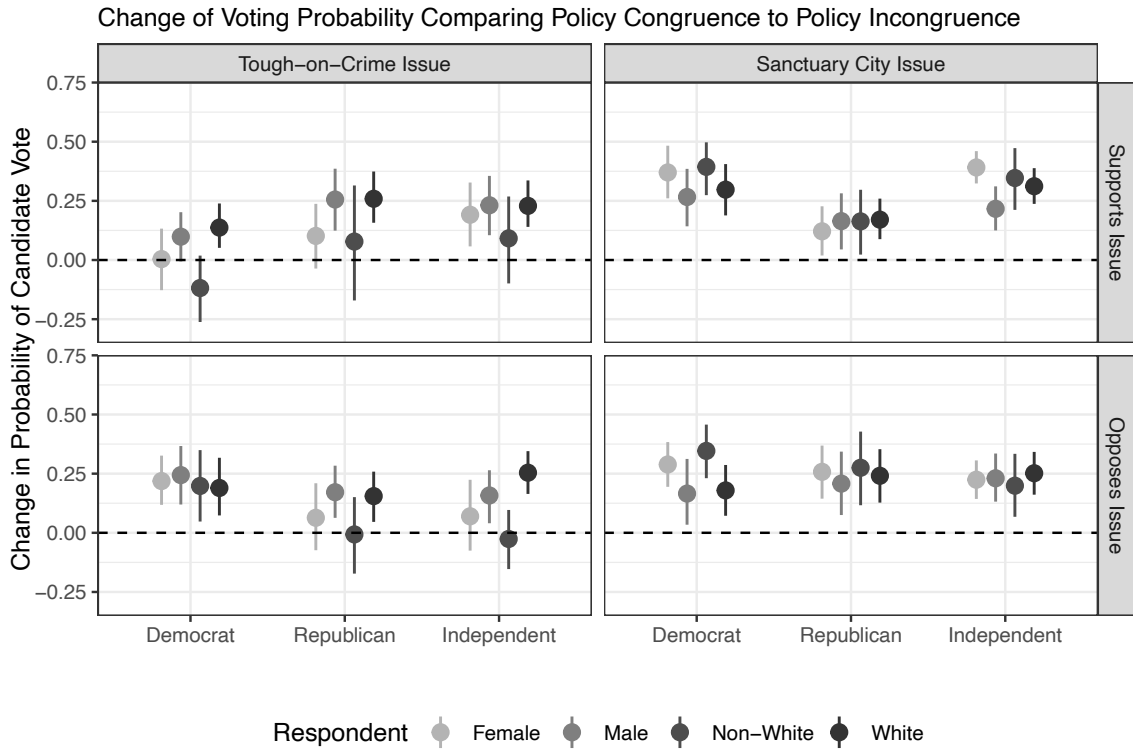


Figure A.12: Subgroup Differences

The y-axis shows the predicted probabilities changes associated with a respondent going from policy incongruence to policy congruence on two issues subset by policies. The x-axis represents the varying candidate party affiliations. The lightest gray dots and lines denote estimates for female respondents, the lighter grey for male, dark grey for non-White, and black dots for White. 95% confidence intervals are obtained from robust standard errors, clustered by respondent.

A14. ADDITIONAL ANALYSIS USING SAMPLE THAT FAILED SCREENERS

Table A.14: Policy Voting on the Tough-on-Crime Issue

Respondent Attributes	Candidate Vote (1 = Yes)							
	Tough-on-Crime Platform				Reform-minded Platform			
	Pooled	Democrat Cand	Republican Cand	Independent Cand	Pooled	Democrat Cand	Republican Cand	Independent Cand
<b>Tough-on-Crime (=1)</b>	0.18** (0.09)	-0.27** (0.11)	0.56** (0.15)	0.17 (0.14)				
Tough-on-Crime × Democrat (=1)	0.02 (0.10)	0.49*** (0.12)	-0.43** (0.18)	0.06 (0.17)				
Tough-on-Crime × Republican (=1)	-0.09 (0.10)	0.23 (0.16)	-0.34 (0.21)	-0.14 (0.19)				
<b>Reform-minded (=1)</b>					0.30*** (0.08)	0.04 (0.14)	0.35** (0.15)	0.23* (0.13)
Reform-minded × Democrat (=1)					-0.12 (0.09)	0.18 (0.16)	-0.13 (0.17)	-0.14 (0.17)
Reform-minded × Republican (=1)					-0.21** (0.08)	0.22 (0.18)	-0.16 (0.16)	-0.34* (0.19)
Democrat (=1)	-0.09 (0.07)	-0.17 (0.11)	-0.06 (0.13)	-0.07 (0.13)	0.21*** (0.05)	0.02 (0.08)	0.38*** (0.09)	0.01 (0.12)
Republican (=1)	-0.07 (0.08)	-0.31** (0.13)	0.07 (0.15)	-0.04 (0.14)	0.27*** (0.04)	-0.16 (0.12)	0.54*** (0.09)	0.12 (0.12)
Male (=1)	0.07* (0.04)	0.08 (0.06)	0.14 (0.08)	0.03 (0.07)	-0.04 (0.04)	-0.12** (0.05)	-0.09 (0.06)	0.05 (0.08)
College Degree (=1)	0.08 (0.11)	-0.02 (0.10)	0.08 (0.14)	0.22 (0.22)	-0.06 (0.09)	0.11** (0.04)	-0.08 (0.11)	-0.24 (0.16)
Ideology	0.003 (0.01)	0.02 (0.02)	-0.01 (0.02)	0.005 (0.02)	-0.01 (0.01)	-0.02 (0.01)	0.001 (0.01)	0.005 (0.02)
Age	-0.0000 (0.002)	-0.001 (0.002)	-0.0002 (0.003)	0.002 (0.003)	0.001 (0.001)	0.003 (0.002)	0.002 (0.003)	0.0004 (0.003)
Constant	0.33** (0.14)	0.53*** (0.18)	0.29 (0.20)	0.10 (0.27)	0.29** (0.12)	0.44*** (0.14)	0.07 (0.20)	0.65*** (0.25)
Observations	638	199	230	221	682	233	230	219

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Table A.15: Policy Voting on Sanctuary City Issue

Respondent Attributes	Candidate Vote (1 = Yes)							
	Pro-sanctuary city Platform				Oppose-sanctuary City Platform			
	Pooled	Democrat Cand	Republican Cand	Independent Cand	Pooled	Democrat Cand	Republican Cand	Independent Cand
<b>Pro-sanctuary city(= 1)</b>	0.30*** (0.10)	0.11 (0.19)	0.33 (0.21)	0.45*** (0.12)				
Pro-Sanctuary City × Democrat (=1)	-0.29** (0.12)	-0.09 (0.20)	-0.35 (0.25)	-0.39** (0.15)				
Pro-Sanctuary City × Republican(=1)	-0.15 (0.11)	0.23 (0.24)	-0.23 (0.25)	-0.47*** (0.17)				
<b>Oppose-sanctuary city (= 1)</b>					0.38*** (0.08)	0.62*** (0.17)	0.26 (0.34)	0.28* (0.17)
Oppose-Sanctuary City × Democrat (=1)					-0.35*** (0.10)	-0.69*** (0.18)	-0.07 (0.36)	-0.28 (0.18)
Oppose-Sanctuary City × Republican (=1)					-0.24** (0.10)	-0.51** (0.21)	-0.19 (0.36)	-0.06 (0.22)
Democrat (=1)	0.21*** (0.08)	0.13 (0.19)	0.36** (0.17)	0.003 (0.14)	0.14** (0.06)	0.27* (0.15)	-0.01 (0.32)	0.12 (0.14)
Republican(=1)	0.02 (0.08)	-0.26 (0.19)	0.33** (0.13)	-0.13 (0.11)	0.21*** (0.06)	0.18 (0.19)	0.31 (0.33)	0.06 (0.17)
Male (=1)	-0.001 (0.04)	0.03 (0.08)	0.03 (0.08)	-0.05 (0.06)	0.001 (0.04)	-0.08 (0.07)	-0.02 (0.07)	0.08 (0.07)
College Degree (=1)	0.05 (0.10)	0.05 (0.33)	0.01 (0.19)	0.05 (0.18)	-0.07 (0.07)	-0.02 (0.06)	-0.03 (0.11)	-0.17 (0.19)
Ideology	-0.01 (0.01)	-0.03* (0.02)	-0.02 (0.02)	0.02* (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.01 (0.02)
Age	-0.002 (0.002)	-0.001 (0.003)	-0.002 (0.003)	-0.003 (0.003)	0.002* (0.001)	-0.002 (0.003)	0.001 (0.003)	0.01*** (0.003)
Constant	0.40*** (0.14)	0.55 (0.40)	0.29 (0.25)	0.51** (0.25)	0.22** (0.09)	0.30* (0.16)	0.28 (0.34)	0.11 (0.23)
Observations	610	201	211	198	610	202	204	204

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

## APPENDIX B

### PROSECUTORIAL RESPONSIVENESS

#### B1. VALIDATING PREDICTIONS OF PUBLIC SUPPORT ON DECRIMINALIZATION OF DRUGS

To evaluate the performance of the newly constructed measurement of county-level public support for drug decriminalization, I use out-of-sample prediction to assess how accurate my model is at making predictions on unseen data.

To do so, I run 2,858 out-of-sample predictions to validate each unique county prediction in my dataset. In each iteration, I partition my data into training and testing sets, with one county being the testing set and the rest being the training set. Using the training set, I build a model that includes measures of respondents' gender, age group, college degree, partisanship, ideology, and state. I then use the trained model to make predictions about the county-level public opinion on drug decriminalization in the testing set, which is constructed by taking the weighted mean of individuals' opinions from that specific county. I calculated the accuracy rate of county-level public support for drug decriminalization by comparing each county's out-of-sample prediction with its true mean in the CCES data. Overall, the differences ranged from 0.00 to 0.55. However, the distribution of the differences is right-skewed, suggesting good performance of my model predictions. Specifically, about 75% of county predictions have a difference of less than 0.10 between the true mean and the predicted mean. Table 3 provides an abridged summary showing the top 20 predictions with the smallest differences and the bottom 20 predictions with the largest differences.

Table B.1: Predicted accuracy rate by county

	County	Prediction	True Mean	N	Difference	Difference
10	Lancaster PA	0.63	0.64	230	-0.00	0.00
16	Philadelphia PA	0.75	0.74	643	0.00	0.00
19	Bronx NY	0.70	0.71	436	-0.00	0.00
26	Sarasota FL	0.69	0.70	239	-0.00	0.00
35	Macomb MI	0.69	0.68	327	0.00	0.00
37	Skagit WA	0.70	0.70	47	0.00	0.00
40	Marquette MI	0.72	0.72	37	0.00	0.00
42	Brevard FL	0.68	0.68	297	-0.00	0.00
47	Middlesex MA	0.73	0.73	643	-0.00	0.00
85	Allen IN	0.66	0.66	178	0.00	0.00
88	Henrico VA	0.75	0.75	214	0.00	0.00
105	Roanoke VA	0.73	0.73	46	-0.00	0.00
122	Chester PA	0.70	0.70	183	0.00	0.00
150	Warren OH	0.69	0.69	76	0.00	0.00
186	Florence SC	0.70	0.70	54	0.00	0.00
196	York ME	0.67	0.67	102	0.00	0.00
190	Williams OH	0.36	0.60	21	-0.23	0.23
113	Mercer WV	0.36	0.60	27	-0.24	0.24
330	Vilas WI	0.42	0.66	16	-0.24	0.24
116	Anson NC	0.35	0.61	10	-0.25	0.25
318	Smyth VA	0.87	0.62	17	0.25	0.25
195	Walker TX	0.86	0.60	19	0.26	0.26
249	Mono CA	1.00	0.74	4	0.26	0.26
112	Eagle CO	1.00	0.72	5	0.28	0.28
140	Pacific WA	0.27	0.55	14	-0.28	0.28
254	Halifax NC	0.39	0.68	10	-0.29	0.29
253	Pitt NC	0.32	0.62	50	-0.30	0.30
267	Fayette IA	0.92	0.60	6	0.32	0.32
198	Northumberland VA	0.94	0.59	14	0.35	0.35
50	Washington TX	0.34	0.72	15	-0.38	0.38
297	Emmons ND	0.00	0.55	1	-0.55	0.55



## B2. VALIDATING CROWD-CODINGS

### A SUMMARY OF CODERS AND STATEMENTS

Table B.2: Coders and Offices in the second round of codings by State-a

	State	N of DA Mentioned	N of Unique Statements	N of Codings	N of Unique Coders
1	AL	13	15	81	78
2	AZ	9	14	61	53
3	AR	8	14	55	53
4	CA	40	60	306	247
5	CO	13	20	87	80
6	FL	14	26	130	113
7	GA	14	17	72	69
8	HI	4	5	19	19
9	ID	8	11	85	80
10	IL	36	66	332	269
11	IN	40	60	283	221
12	IA	24	31	139	123
13	KS	34	43	215	184
14	KY	8	8	50	48
15	LA	27	38	199	166
16	ME	3	7	29	29
17	MD	10	12	98	92
18	MA	2	5	27	25
19	MI	6	7	40	40
20	MN	37	49	206	175
21	MS	7	9	55	44
22	MO	21	30	149	130
23	MT	10	14	50	49
24	NE	7	7	27	27
25	NV	3	3	7	7

Table B.3: Coders and Offices in the second round of codings by State-b

	State	N of DA Mentioned	N of Unique Statements	N of Codings	N of Unique Coders
26	NH	4	8	28	28
27	NJ	16	24	104	96
28	NM	5	7	27	27
29	NY	22	38	176	151
30	NC	8	10	47	46
31	ND	15	17	67	64
32	OH	23	33	143	124
33	OK	15	16	100	97
34	OR	20	31	148	132
35	PA	14	27	149	125
36	RI	1	1	4	4
37	SC	15	27	127	111
38	SD	10	19	90	81
39	TN	14	27	124	114
40	TX	10	13	47	46
41	UT	12	17	74	68
42	VT	5	5	25	25
43	VA	37	51	230	199
44	WA	15	21	86	81
45	WV	10	11	39	38
46	WI	34	46	244	210
47	WY	7	9	41	41
Total	–	710	1029	4922	4329

## CODERS AGREEMENTS

To measure the certainty of my crowd codings, I calculated inter-coder agreement scores for their codings on district attorneys' policy positions. The procedure is as follows:

First, to reiterate, I calculate each district attorney's policy by using the majority decision rule, which is to identify the most frequent classification (the mode value) of their policy stances. For example, if five coders classify one district attorney's statement, and the classifications are -1, 0, 0, 0, 1, then the mode value is 0.

Second, I obtain the inter-coder agreement by calculating the proportion of the frequency of the mode value versus other values. For example, if the five coders' classifications result in:  $\{-1, 0, 0, 0, 1\}$ , the mode value is 0, and the inter-coder agreement is 0.6. If the five classifications are:  $\{0, 0, 0, 0, 1\}$ , the mode value is still 0, and the inter-coder agreement is 0.8.

Applying this procedure, my results are quite encouraging. Agreements between coders are high for the two policy positions. For the district attorneys' positions on drug decriminalization estimate, the average inter-coder agreement is 0.65, with more than half of the codings obtaining an agreement score higher than 0.6 (see table 4). As for the approach to punishment estimate, the average inter-coder agreement is 0.71, with more than half of the codings obtaining more than 0.70 (see table 5).

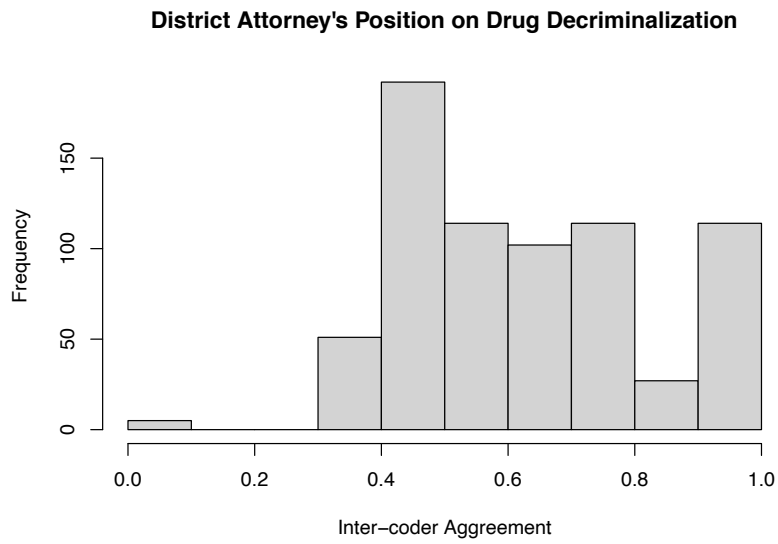


Figure B.1: Inter-Coders Agreements on Drug Decriminalization

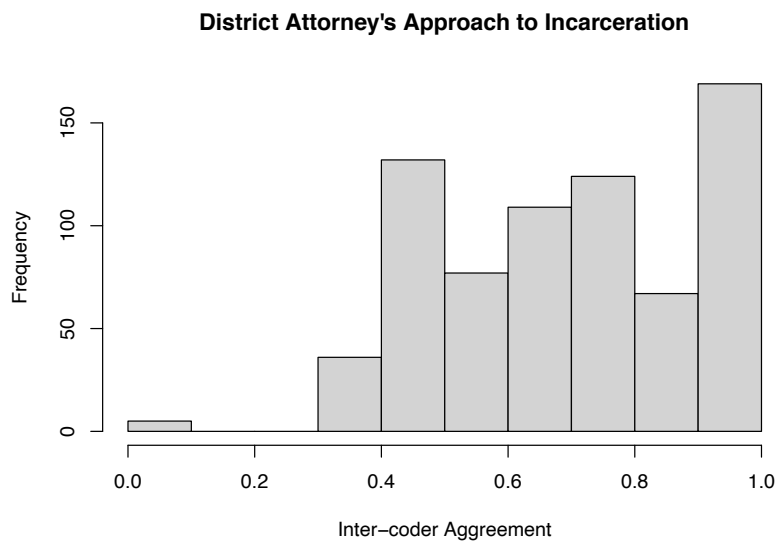


Figure B.2: Inter-Coders Agreements on Approach to Incarceration

### B3. SAMPLE OF THE SECOND ROUND CODING QUESTIONS

**Policy Statement:**

"Grafton County Alternative Sentencing Programs seek to provide an effective and meaningful alternative to the traditional criminal justice system for first time juvenile offenders and for individuals with a mental illness, or drug and alcohol addiction. Our goal is to promote prompt intervention, education, treatment and recovery in order to improve the quality of the individual's life, reduce recidivism and improve community safety."

On the issue of decriminalization of drugs, is this statement supportive OR skeptical and disapproving of decriminalization of drugs OR neutral and describing the status quo?

It is supportive

It is skeptical and disapproving

It is neutral/describes status quo

Figure B.3: Sample Of The Second Round Coding Questions

B4. DRUG POLICY MENTIONED

Table B.4: Percentage of Chief Prosecutors that Mentioned Drug Policies by State

State	% of offices mentioned Drug	State	% of offices mentioned Drug
Alabama	31%	Montana	43%
Alaska	0 %	Nebraska	28%
Arizona	60 %	Nevada	18%
Arkansas	29 %	New Hampshire	40%
California	69 %	New Jersey	76%
Colorado	59%	New Mexico	36%
Connecticut	–	New York	35%
Delaware	23%	North Carolina	19%
Florida	70%	North Dakota	28%
Georgia	29%	Ohio	26%
Hawaii	100%	Oklahoma	56%
Idaho	24%	Oregon	56%
Illinois	34%	Pennsylvania	21%
Indiana	44%	Rhode Island	100%
Iowa	24%	South Carolina	94%
Kansas	33%	South Dakota	15%
Kentucky	14%	Tennessee	45%
Louisiana	66%	Texas	35%
Maine	38%	Utah	38%
Maryland	42%	Vermont	36%
Massachusetts	18%	Virginia	30%
Michigan	46%	Washington	38%
Minnesota	43%	West Virginia	18%
Mississippi	32%	Wisconsin	48%
Missouri	18%	Wyoming	30%

B5. PROSECUTORS MENTIONING DRUG-RELATED POLICIES

Table B.5: Public Preference Effect on Prosecutors' Drug Mention

	Drug Policy Mentioning			
	(1)	(2)	(3)	(4)
Public Opinion on Drugs	2.066 (1.343)	1.495 (1.651)	-16.855 (12.387)	0.489 (1.879)
Crime Issue Importance		-0.901 (1.518)	-16.916 (10.710)	-1.038 (1.524)
Contested Election		0.255* (0.137)		-1.995 (2.036)
Public Opinion $\times$ Crime Importance			21.857 (14.572)	
Public Opinion $\times$ Contested Election				3.379 (3.049)
Constant	-1.854** (0.897)	-0.797 (2.110)	12.754 (9.190)	-0.013 (2.223)

*Note:*

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

B6. PUBLIC PREFERENCE EFFECT ON PROSECUTORS' POLICY STANCE ON DRUG  
DECRIMINALIZATION

Table B.6: Prosecutors' Position on Drugs Decriminalization

	Disapproving	Not Mentioned	Supportive
	(1)	(2)	(3)
Public Opinion on Drug	1.640 (5.371)	-0.227 (3.333)	3.978 (5.003)
Democratic Vote Share	0.190 (0.686)	-1.494*** (0.449)	2.773*** (0.580)
Crime Importance	1.624 (2.322)	1.845 (1.446)	-1.333 (1.945)
Contested Election	0.549 (1.863)	-0.842 (1.212)	1.310 (1.673)
Public Opinion × Contested Election	-0.672 (2.803)	0.759 (1.823)	-1.730 (2.491)
Constant	-3.352 (4.449)	1.345 (2.753)	-3.182 (4.088)

*Note:*

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01



B7. PUBLIC PREFERENCE EFFECT ON PROSECUTORS' APPROACH TO PUNISHMENT

Table B.7: Prosecutors' Position on Approaches to Punishment

	<i>Dependent variable:</i>		
	Neutral (1)	Not Mentioned (2)	Prevention-based (3)
Public Opinion	0.569 (26.565)	13.380 (19.843)	-1.272 (26.486)
Democratic Vote Share	-0.744 (0.986)	-1.100 (0.801)	1.995** (0.875)
Crime Importance	-0.982 (23.045)	11.496 (17.287)	-0.848 (22.817)
Contested Election	-0.061 (0.303)	-0.382 (0.247)	-0.325 (0.277)
Public Opinion × Crime Importance	5.642 (31.275)	-9.987 (23.249)	8.482 (31.223)
Constant	-2.049 (19.810)	-10.361 (14.952)	-2.923 (19.560)
Akaike Inf. Crit.	2,221.613	2,221.613	2,221.613

*Note:*

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

## B8. MODERATION EFFECTS ON PROSECUTORS' DRUG POLICY RESPONSIVENESS

### 1. CRIME ISSUE IMPORTANCE MODERATION

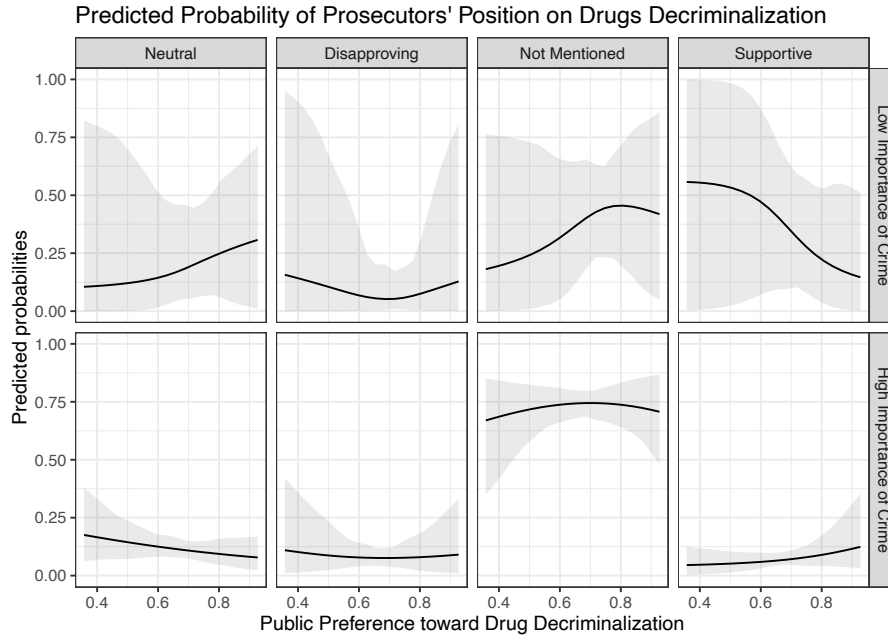


Figure B.4: Moderation Effects On Prosecutors' Drug Policy Responsiveness I

The graph demonstrates how the importance of the crime issue moderates prosecutors' responsiveness to drug policy. The first row illustrates the variations in prosecutors' positions on drugs based on public preference when their constituents rated crime issue as high importance. In contrast, the second row depicts the same relationship when their constituents rated crime issue as low importance. From the left panel to the right, the graph displays the predicted probabilities of prosecutors being categorized as "neutral," followed by those taking a "disapproving" stance, then falling into the "Not Mentioned" category, and finally adopting a "supportive" position.

## 2. CONTESTED ELECTION MODERATION

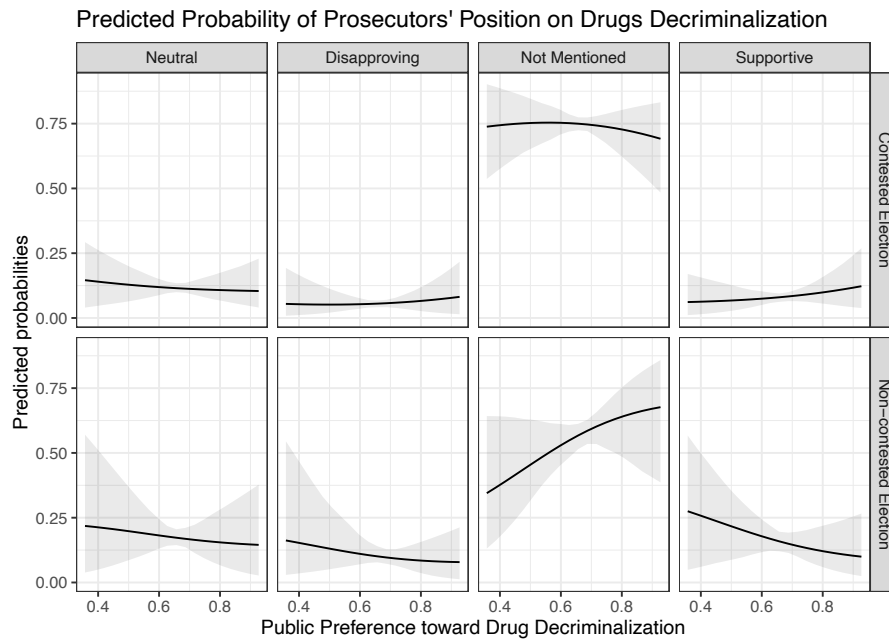


Figure B.5: Moderation Effects On Prosecutors' Drug Policy Responsiveness II

The graph demonstrates how contested election moderates prosecutors' responsiveness to drug policy. The first row illustrates the variations in prosecutors' positions on drugs based on public preference, given they won a contested election. In contrast, the second row depicts the same relationship for prosecutors who have previously faced a non-contested election. From the left panel to the right, the graph displays the predicted probabilities of prosecutors being categorized as "neutral," followed by those taking a "disapproving" stance, then falling into the "Not Mentioned" category, and finally adopting a "supportive" position.

## B9. MODERATION EFFECTS ON APPROACHES TO PUNISHMENT

### 1. CRIME ISSUE IMPORTANCE MODERATION

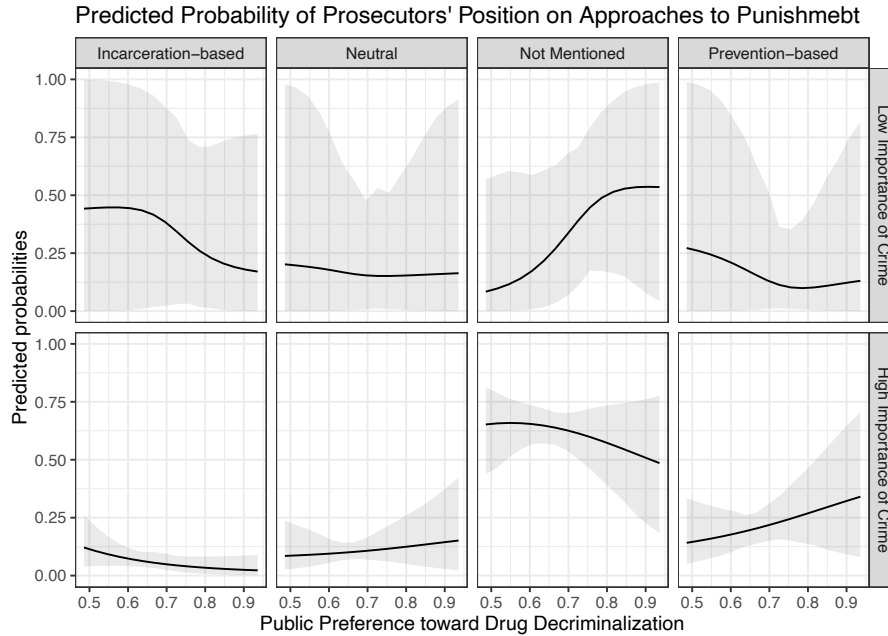


Figure B.6: Moderation Effects By Issue Importance

The graph demonstrates how the importance of the crime issue moderates prosecutors' responsiveness to local lenience in terms of their approach to punishment. The first row illustrates the variations in prosecutors' approach to punishment based on public preference given that their constituents rated the crime issue as high importance. In contrast, the second row depicts the same relationship when their constituents rated the crime issue as low importance. The left panel displays the predicted probabilities of prosecutors adopting an "Incarceration-based" approach, followed by a "Neutral" approach, then those falling under the "Not Mentioned" category, and finally a "Prevention-based" approach.

## 2. CONTESTED ELECTION MODERATION

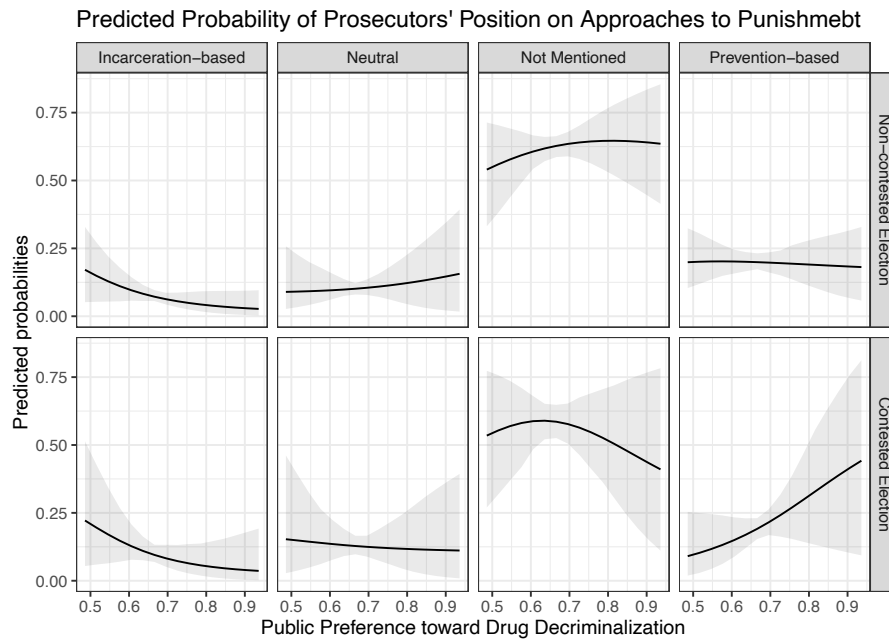


Figure B.7: Moderation Effects By Electoral Pressure

The graph demonstrates how contested election moderates prosecutors' responsiveness to local lenience in terms of their approach to punishment. The first row illustrates the variations in prosecutors' approach to punishment based on public preference given they faced non-contested elections. In contrast, the second row depicts the same relationship when they faced contested elections. The left panel displays the predicted probabilities of prosecutors adopting an "Incarceration-based" approach, followed by a "Neutral" approach, then those falling under the "Not Mentioned" category, and finally a "Prevention-based" approach.

## APPENDIX C

### APPOINTED PROSECUTORS

#### ALASKA

Alaska has only four regional judicial districts, each of which is headed by a District Attorney appointed by the state's Attorney General.

#### CONNECTICUT

In Connecticut, there are 13 criminal justice divisions, each of which has a head prosecutor referred to as the State's Attorney. Connecticut's constitution requires a Criminal Justice Commission to make appointments of State's Attorneys, as well as the Chief State's Attorney, who is responsible for the administration of the Division of Criminal Justice. The positions of State's Attorney are open to attorneys admitted to the Bar of the State of Connecticut. The Criminal Justice Commission will interview candidates and has sole authority for the appointment of all state prosecutors in Connecticut. Once appointed, State's Attorneys serve an 8-year term. The Commission includes the Chief State's Attorney and six members appointed by the Governor, confirmed by the General Assembly. Two of them must be Superior Court judges.

#### DELAWARE

The local prosecutors in Delaware are appointed by the state's Attorney General, and local prosecutors are reported to a State' Prosecutor who is also appointed by the Attorney General.

NEW JERSEY

New Jersey has 21 counties, and each county has its own lead prosecutor. The State of New Jersey’s constitution dictates that County prosecutors must be nominated and appointed by the governor with the Senate’s advice and consent. Upon appointment, prosecutors serve for a term of five years. New Jersey’s Statutes also dictates that the Governor may remove a county prosecutor from office for cause following a public hearing, proper notice, and an opportunity for the prosecutor to present a defense.

Table C.1: Appointment Rules for Local Prosecutors

States	Who Appoints	Who Confirms	Other
Alaska	Attorney General	None	
Connecticut	Criminal Justice Commission	None	Governor appoints the Commission
Delaware	Attorney General	None	Report to A State Prosecutor
New Jersey	Governor	State Senate	

Table C.2: Removal Rules for Local Prosecutors

States	Who Removes	Procedure
Alaska	Attorney General	NA
Connecticut	Criminal Justice Commission	
Delaware	Attorney General	
New Jersey	Governor	A public hearing is required